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ABSTRACT

Family sexual abuse is now being recognized as a reality that requires professional intervention. This manual covers the entire intervention process from case identification and reporting of suspected abuse, through the investigation and treatment phases. The central focus is on the abused child and the victim's need for protection. Among the topics discussed are the identification of the victim and the family, the reporting statute, information gathering, suing the judicial system, providing services, and preventing of sexual abuse. (Author/BRW)

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# INCEST

## Confronting the silent Crime

coordinated by

Peggy Specktor, Director
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of the

Minnesota Program for Victims of Sexual Assault

as our

Contribution on Behalf of the International Year of the Child

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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The Minnesota Program for Victims of Sexual Assault, in it's continuing effort to provide materials and resources for victims of sexual assault, formulated a committee to author a manual specifically designed to assist professionals in providing services to victims of family sexual abuse — incest.

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# CHAPTER ONE
# INTRODUCTION

Family sexual abuse, the involvement of a minor child in sexual activity by his/her parent, guardian or caretaker, is now being recognized as a destructive reality that requires professional intervention. The mandatory reporting law reflects this philosophy, and its passage has resulted in a marked increase in identified and reported cases.

Now that reporting and child protection services are legally mandated for family sexual abuse, the many professionals involved are struggling to find ways of intervening that can be truly helpful both to the child victims and to their families. This manual is drawn from the experiences and judgments of numerous professionals who have been involved in community services for the abused child and the abusive family over the past ten years. It covers the entire intervention process from case identification and reporting of suspected abuse, through the investigation and treatment phases.

Throughout, our central focus is on the abused child. The victim's need for protection is our primary responsibility. Beyond that, our effort is to provide professional services to assist these children in resolving the negative impact of abusive experiences upon their lives. Of course, we are also concerned with the needs of their families and how to provide them appropriate and effective services. Most often, the children do not want their families disrupted; they simply want the abuse to stop. However, in cases in which the parents cannot be relied upon to cease the abusive behavior and to seek appropriate rehabilitation for themselves, the needs of the children must take precedence.

The *legal* definition of incest is limited to only a few of the sexual abuses to which children may be subjected within the family (see Legal Definitions of Sexual Abuse, in Chapter Six). In contrast to the limited legal definition, we have used the terms incest and family sexual abuse interchangeably. We have done so to emphasize that the misuse of parental authority and trust involved in sexually exploiting a child have the impact of incest, regardless of the biological relationship of the caretaker or of the specific form of sexual activity.

The authors of this manual come from the disciplines of education, social work, corrections, law enforcement, psychology, medicine, and legal professions. Each of us has been significantly involved in services to abused children and their families over the past decade. As a group, we have also been involved as presentors in statewide training programs sponsored by the Minnesota Program for Victims of Sexual Assault. This manual has been developed out of those training programs and is a summary of presentations concerning family sexual abuse of children. Contained in this manual is an underlying philosophy for working with the sexually abused child that is a result of the authors' professional experiences and which reflects their collective judgements. The recommended procedures are based on this philosophy. The authors of this manual acknowledge the continued support and information offered by the many other individuals throughout the state who have made substantial contributions in the area of sexual abuse.

As is reflected in the authorship of this manual, our experiences draw upon many different disciplines. We believe it is necessary to involve different disciplines, given the complex, multi-faceted nature of the problem of sexual abuse of children. Such inter-disciplinary collaboration is made possible through the use of an inter-agency team process. The exchange of information and coordination among various professionals broadens and deepens each professional's perspective and leads to both greater knowledge about, and more effective services for, abused children and their families.

Incest: Confronting the Silent Crime, is intended for use by persons working in the following areas: law enforcement, legal, medical, human services and education.

# CHAPTER TWO
# OVERVIEW

## THE INCIDENCE OF INCEST

Researchers unanimously agree that the reported incidence of incest represents but the tip of the iceberg. While the American Humane Society estimates that 60,000 to 100,000 children are sexually abused annually, knowledgeable estimates are that only 20 percent of these crimes are reported. Researchers estimate that incest affects 10 to 14 percent of all families (Tormes, 1968).

Incidence statistics until recently have been drawn primarily from Criminal Court records and research studies of imprisoned offenders. The social stigma, shame and guilt which tend generally to depress the reporting of sexual offenses are especially operative in instances of incest. In an attempt to overcome the limitations of studying only reported incidents, a few researchers have conducted retrospective studies of large numbers of adults to find out how many were sexually victimized as children.

Gagnon (1965), sampling 1,200 college-age females, found 26 percent reported having a sexual experience with an adult before age 13. It is important to note here that the subjects could remember the case being reported to the police in only six percent of the incidents. For 21 percent of the offenses reported to Gagnon, the research interview was the first time the subject had told anyone about the event. Kinsey (1953), interviewing several thousand adult women across the nation, found from 20 to 24 percent were sexually molested as children.

In the 1970's several factors contributed to the creation of a more receptive environment for reporting offenses. States passed or strengthened mandatory reporting laws, the National Center for Child Abuse and Neglect was established, and various hotlines were formed to facilitate communication and support to people needing help and education in the area of child abuse.

From 1974 to 1977, the number of child abuse cases reported to the Minnesota Department of Welfare increased more than fourfold. The effect of child abuse reporting laws on incidence statistics is depicted in the startling rise in the number of cases of incest in Hennepin County from 1972 to 1977. In 1972 there were 14 cases of

incest reported in Hennepin County, as compared to 200 cases of incest reported in 1977. 1972 was the first year in which cases of incest were required to be included in the statistics on child abuse.

## UNDERLYING PHILOSOPHY

Our understanding of family sexual abuse and our view of effective intervention and treatment are based on certain philosophical beliefs regarding children and families. The basis of our philosophy is the recognition that children need and have a right to a childhood and adolescence free of physical violence or sexual intrusion from the adults in their lives. Sexual abuse, i.e. the involvement of children by adults in sexual activity, is harmful. It is exploitive and deeply disruptive of the normal developmental tasks of childhood and adolescence. To quote C. Henry Kempe (1978) of the National Center for Prevention and Treatment of Child Abuse, Denver:

> . . . sexual abuse robs the child and adolescent of their developmentally determined control over their own bodies, and they are further robbed of their own preference, with increasing maturity, for sexual partners on an equal basis. This is so regardless of whether the child has to deal with a single overt, and perhaps violent act, often committed by a stranger, or with incestuous acts, often continued for many years, which may be carried out under actual or threatened violence or may be nonviolent or even tender, insiduous, collusive, and secretive.

The fact that sexual abuse occurs within the family unit alters the impact upon the child and the type of intervention the community provides. We have found the impact of family sexual abuse upon the child is more complicated and far reaching than the impact of other sexual misconduct involving children. Obviously, services should be directed not only to the victim, but also to the dysfunctional family system in which the abuse occurred. This should not, however, cloud our understanding of the essential nature of the abusive behavior itself. Family sexual abuse is behavior that qualifies as criminal sexual conduct. Beyond the dysfunctional family system there is the individual pathology of the abusive adult, whose behavior is criminal. This view has significant implications, both for legal action and in the focus of treatment efforts with family members.

The need to grow up in a stable family unit is a universal need and right of children. In abusive families, there is often a conflict between a child's need for protection and his/her need and desire to remain with the family. This conflict is often felt most painfully by the victim and may retard or complicate the child's efforts to seek help. However, sexual abuse within the family unit is a serious failure of family responsibility to provide for the physical well-being, growth, and development of its members, particularly children. State intervention in such families is necessary in order to provide basic protection to the vulnerable child or children and to provide services for the rehabilitation of the family unit. The maintenance or reunion of a family unit in which sexual abuse has occurred must be based upon a cautious and reasonable judgment that it is in the child's interest and the reassurance that the child will not be further abused.

Our social and legal systems inadequately service the rights and needs of those children who are in danger at the hands of their parents and whose parents fail as their advocates. We professionals are adults, and we live and work in a society structured by and for adults. Our social attitudes and laws regarding parents and children

traditionally have accorded parents virtually an absolute or "divine right" over their children. Thus, we are only now beginning to recognize how the unique needs of the child and adolescent must be supported legally by appropriate rights and protections, including vigorous enforcement of existing legal protections. We who are involved professionally with these children and their parents must be thoughtful and self-critical. We cannot assume automatically, even with the best intentions, that we, constrained by the systems that employ us, know what is best for these children. We must repeatedly ask ourselves and our agencies, "Who speaks for the child?" and "How well?"

## SOCIAL ATTITUDES

The philosophy outlined above is in sharp contrast to a number of attitudes and beliefs that are prevalent in our society regarding children and adolescents. It is important to identify these attitudes because they strongly influence society's understanding of and response to physical and sexual abuse of children.

In our western civilization children have historically been seen as the exclusive property of their parents. In Grecian and Roman times, parents had the right to kill their offspring if they chose to do so. Even today, our legal rights and protections are overwhelmingly rights and protections for adults. For example, one of the few laws which is specifically concerned with violence against children is the reporting law, which simply requires reporting to and involvement of welfare child protection services. Seldom is the violence of parents and other adults against children adequately addressed in the criminal statutes. Only when injuries to children are seen as qualifying under statutes written to deal with adult conflict and violence (simple assault, aggravated assault, criminal sexual conduct) can child abuse be punishable in Criminal Court. Moreover, the special characteristics and needs of children, especially those who need protection from their own parents or guardians, are so inadequately recognized or accommodated in legal due process that, in effect, children have few if any rights or protections under the law.

One of western civilization's most dearly-held beliefs is in the privacy and the sanctity of home and family. It relates directly to the value we place on individual liberty and to our fear of authoritarian intrusion. Through the centuries, these beliefs have meant virtually absolute power for parents with regard to the care and treatment of children. Any intrusion upon this parental authority by the State has been met initially with very strong resistance — for example, resistance in response to the child labor laws in the 1800's, and currently in debates concerning child abuse and neglect legislation.

What these recent debates highlight is the widely prevalent attitude that families can do best for themselves and their offspring with a minimum of State intervention. The reality of abused and neglected children forces us to acknowledge, however, that some families fail to provide even the most basic necessities for their children — necessities of food, shelter, clothing, and protection from physical violence or sexual exploitation. We are thus confronted with the dilemma of how to balance our values of privacy and personal liberty against children's needs for basic protection and minimum standards of care.

Another cluster of attitudes that affect our response to physical and sexual abuse of children is the ambivalence of adults towards adolescents. Adult responses to adolescents are complicated by the fact that adolescents can be arrogant, provocative,

and seductive. Adolescent behavior which antagonizes adults makes it difficult for adults to see that adolescent as a victim. Too often the report of abuse by an adolescent is not believed because the adolescent is seen as seductive or provocative and therefore somehow responsible for any sexual incident. The obnoxious behavior which turns adults away can be and, in fact, often is the direct result of abuse at home. In such cases, our scepticism and blame of the victim plays into and is reinforced by the typical rationalizations of abusive adults, that is, that the victim wanted it, asked for it, deserved it, and even enjoyed it. When an abuse victim is confronted with such attitudes both at home and in the community, his/her own sense of guilt and responsibility is magnified by others' blame, criticism, and lack of support or protection. That some of these adolescents retreat into hostile, destructive and self-defeating behavior is hardly surprising.

## ASSUMPTIONS

From our beliefs and our experiences with sexually abusive families, we have developed a series of working assumptions. We share the following assumptions which we have adapted from those of the Ramsey County Child Abuse Team.

### Definitions and Diagnostic Assumptions

1. Sexual abuse, as defined by welfare child protection policy and procedures, includes any sexual activity engaged in with a minor by parent, guardian or caretaker.

2. Sexual abuse is invariably damaging psychologically to the victim and to other family members. All varieties of sexual abuse are similar in their impact upon a child. For the victim, the emotional consequences are usually very low self-esteem, depression, guilt, substantial confusion, and ambivalence concerning sexuality.

3. Without intervention, sexual abuse will continue and will be inflicted upon other female children within the family. Male children may either be involved as victims or taught to be abusive.

4. In addition, physical abuse of spouse and children is often present.

5. The abusive adult and the spouse are often chemically dependent.

6. The victim's understanding of sexuality is usually distorted and the victim often lacks the verbal skills to express his/her experiences and feelings. This can hinder the child in efforts to seek help.

### Assumptions Regarding Intervention and Treatment

1. A child or adolescent who reports being sexually abused is assumed to be telling the truth, unless there is clear evidence otherwise. A sensitive and skilled interviewer can usually elicit ample details to confirm the veracity of the report.

2. The protection of the victim and of other siblings is the primary concern. The victim, when reporting, will need immediate individualized and ongoing support. If unprotected, the victim is often subjected to physical abuse or

verbal threats and coercion. If unsupported, the victim is often pressured to retract the accusation.

3. The denial system of the parents is usually extremely strong. They often assert that nothing has gone on or, if it has, it "will never happen again." If the victim returns home without intensive intervention in the family system, however, the old patterns continue. Thus, more drastic initial intervention is correlated with more favorable outcome, both in insuring immediate protection of the victim and in counteracting the parents' massive denial.

4. Most frequently the abuser is uncooperative and will not voluntarily seek help or change his/her behavior. In such situations, Criminal as well as Juvenile Court action should be initiated, simultaneously whenever possible. The Juvenile Court judge should recommend a specific and intensive treatment plan for the parents of the abused child. The Criminal Court judge should place specific and strict release conditions on the offender's behavior prior to trial.

5. Effective treatment may require at least two years of intensive therapy and support services for family members.

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# CHAPTER THREE

# IDENTIFICATION OF THE VICTIM AND THE FAMILY

Despite individual differences among them, we believe that incestuous families can be described by certain personality traits, behaviors, and family interaction patterns which tend to characterize them. In this chapter we will attempt to describe the personal characteristics and behaviors of incest victims and their families which we have found helpful in identifying them. Our practice has been generally limited to girls, but, in those instances of father-son incest which we have seen, the same or similar patterns have been present. The experience of colleagues in the community indicates that mother-son and mother-daughter incest is by no means rare, as was once thought, but we do not yet have the knowledge to comment on its similarities to more commonly reported forms of family sexual abuse.

We stress two notes of caution. First, the presence of a *pattern* of characteristics in the child, the child's parents, and the family system can alert us to the likelihood of sexual abuse in that family. Reliance on single behavior signs is of little value. Although one particular behavior may arouse our suspicions and appropriately result in our inquiring whether incest is present, often a problem other than sexual abuse may account for the behavior. Secondly, incest is ultimately identified by receiving a report. The actual means of identification is sensitive questioning (or sometimes receptive listening) by someone the reporting person trusts to help him or her. The child, a parent, or a concerned other tells us that incest is present. The patterns of characteristics and behaviors that we will discuss in this section are only aides to identification that alert us to inquire.

## CHARACTERISTICS OF THE VICTIM

Data were collected in Ramsey County, Minnesota, between 1970 and 1976 which tell us something about the typical incest victim. The oldest girl was almost always the first victim, but in more than half of these families, younger sisters were also abused and concurrent brother-sister incest was frequent. On the average, incest began at about the age of ten but was not reported for two years. Actual intercourse occurred in over half the cases. Other forms of sexual abuse included oral-genital and anal contact, penetration with objects, touching of breasts and genital area, and forcing the child to masturbate and perform fellatio on the abuser.

Clinical experience with these children and others reveals a number of common personal characteristics. A hallmark of these youngsters is pervasive low self-esteem. Their sexual experiences in the family have left them a reservoir of shame and guilt. Their poor self-concepts may be manifested as depression, withdrawal, and/or self-destructive acting out.

Incest victims may exhibit a misleading facade of sophistication and maturity. Their pseudo-maturity masks an underlying childlike personality. At home they typically have heavy housekeeping and child care responsibilities, sometimes to the point of reversing roles with their mothers. Because they have never been permitted a normal childhood, they have overwhelming, unmet dependency needs. Abused by their fathers and frequently neglected by their mothers, yet dependent on them for care and affection, these children experience intense ambivalence toward both parents.

Incest victims can appear to be very disturbed, sometimes to the point of psychosis, but, in our experience, occasional psychotic behavior is often hysterical in origin rather than schizophrenic. By hysterical we mean the child exhibits such pre-psychotic personality characteristics as denial, somatization, self-dramatization and seductiveness.

> Case #1: Fourteen-year-old Judy had been in treatment approximately nine months when she began to experience episodes of hallucinations and delusions. These episodes, which lasted several hours each time, consisted of her hallucinating the image of her father approaching her sexually and her believing that her foster mother was conspiring with unspecified others to kill her. She expressed terror during the episodes but was totally amnesic of them afterwards. Prior to the development of these psychotic symptoms, Judy had presented herself as cheerful and friendly. She denied any anger toward family members, three of whom had abused her. Early in foster placement she had made dramatic suicide threats and gestures which required all-night vigils on the part of her foster mother. She complained of severe headaches and stomach pains for which no physical basis could be discovered.

As mentioned earlier, one characteristic of incest victims is self-destructive acting out. While suicide attempts may bring them to hospital emergency rooms, their behavior more frequently brings them to the attention of police and juvenile corrections personnel. Running away and truancy are common, as are chemical dependency and drug abuse. In one survey of runaways, sexual abuse was listed as one of three primary reasons why children chose to leave home (Runaway Newsletter, 1975). James (1975) reported that more than 50 percent of the female children placed in one reformatory in Maine had been molested prior to commitment. Siverson, a family therapist who has treated 500 cases of adolescent chemical dependency, found that of these, 70 percent had experienced some form of family sexual abuse (Ms. Magazine, 1977).

> Case #2: In her appearance and manner, sixteen-year-old Shirley blended the features of a kittenish sexuality with those of a plaintive, lost child. She first came to the attention of juvenile authorities at the age of 14 for repeated truancy and running away from home. Placed in a foster home, Shirley became pregnant by her foster brother, necessitating replacement in a residential treatment facility. Her pregnancy was terminated and Shirley did well in the institutional setting with its structure and limits. After release from this setting, however, Shirley

began heavy use of alcohol and established relationships with a succession of physically abusive boyfriends who were also engaged in criminal behavior.

Problematic sexual behavior and attitudes are invariably a legacy of sexual abuse, typified by an exaggerated attitude toward sex. Victims may manifest either of two extremes — aversion to sex or promiscuity. The girl who fears or hates men and sex is often more easily identified and understood than the victim who becomes promiscuous.

A promiscuous or seductive child is often the result, but never the cause, of incest. A Twin Cities' study of juvenile prostitution (Enablers, 1978) revealed that more than one third of these children had been sexually abused by members of their families. Such children have learned only one way of gaining affection from men. Desperately needy, they know no alternative to presenting themselves to be used, and many seem to court disrespect in a self-destructive manner. Incestuous fathers often justify their own sexual behavior with their daughters as a way of "keeping them off the streets" or minimize the behavior with statements such as "she asked for it — she's a tramp." We suspect that promiscuous behavior in these girls may also serve a retaliatory function by acting out their father's fears and prophecies.

Children seldom demonstrate adult forms of depression before the age of 16. Rather, their depression appears in the form of depressive equivalents, such as acting out behavior. For purposes of identification, we have separated running away, truancy, drug abuse, and promiscuity from depression and withdrawal. For purposes of understanding these children, however, all these symptoms are best seen as manifestations of the same depressive process. Incest victims are almost always depressed.

The symptoms of family sexual abuse can be observed in many different settings. Frequently abuse is identified by the physician or the school.

## IDENTIFICATION OF SEXUAL ABUSE IN A MEDICAL SETTING

Children and adolescents who are victims of sexual abuse may present to their physician with very subtle complaints. The physician needs to be aware that incest does occur in all levels of society and that lack of recognition and under-reporting is the rule (see Associated Press report, in Chapter Four).

Sexual abuse of children perhaps occurs as commonly as physical child abuse. A pediatrician may provide care for a family for years without knowing that incest is occurring. The physician, therefore, must be aware of the characteristics of the victim and the family described here and must learn to recognize the clues pointing to the existence of incest.

A physician may become suspicious because he/she notes that the young child or adolescent he/she is examining has an unusual or strange affect. The patient may be extremely distrustful of the medical examination, wanting to know exactly what the doctor is going to do to his/her body and not wanting to be touched. As part of the symptom complex of the victim's depression and low self-esteem, the child may present with somatic complaints such as fatigue, headache or stomachache, or may even present with hysterical type signs and symptoms such as hysterical paralysis, or mimicking Guillain Barre Syndrome (Kempe, 1978). The recent onset of rebellious or acting out behavior, poor school attendance and lowered school performance may also be clues to this depression. Younger children who are being sexually abused may just

react with excessive fear and clinging behavior or may demonstrate some form of regression in their development. The onset of day or nighttime bedwetting may also be a clue. Older adolescent girls, who wet either during the day or at night, should be considered as possible incest victims. Children who are noted to be seductive or are unusually preoccupied with sex and are frequently heard discussing sexual anatomy and intercourse at a time when their peer group is much more inhibited in these discussions are suspect as victims, as are children who have explicit understanding of intercourse, erection and ejaculation. The following two cases demonstrate some of these characteristics of incest victims.

Case #3: A twelve-year-old girl, not aware that her older sister had also been involved with their father for several years, presented with the chief complaint of "sweaty hands" and did literally have a massive amount of perspiration almost dripping from her fingers. Her older sister, four years earlier, had suddenly become rebellious, ignoring any curfew that the family would set for her. At one time she chased the father around the house with a butcher knife and was sent to live with the grandmother in another city. This went unrecognized by medical and welfare authorities until it came out as part of the investigation of the twelve-year-old victim. On multiple occasions the mother brought her daughters to their pediatrician, seeking help for these behavior and somatic problems.

Case #4: A three-year-old boy was brought to the pediatrician by his parents, complaining that he had begun to wet both day and night, and was masturbating excessively even to the point of crawling in his bed during the daytime to masturbate under the covers, ending in wetting the bed. When questioned, he stated that his teenage babysitter would lie on top of him and rub his penis. He was observed attempting this behavior with a four-year-old playmate at the babysitters and stated when asked what he was doing that he was "making honey." On gentle questioning of the teenage babysitter, she too was found to have been sexually assaulted within her family at an early age.

## IDENTIFICATION OF SEXUAL ABUSE IN A SCHOOL SETTING

School personnel should keep in mind that it is important to be aware of some of the signs that may indicate that a child is being sexually abused. Some of the most common signs include:

1. Depression
2. Withdrawal, i.e. the child who appears to have few friends
3. Chemical abuse
4. Truancy and persistent running away behavior
5. Poor self-image which might include inappropriate clothing, cleanliness, etc.
6. Drop in academic performance
7. Lack of involvement in social activities because of self-choice or because of over-restrictive demands on the part of the family

8. Recurrent somatic complaints to the school nurse

## CHARACTERISTICS OF THE FAMILY

The typical incestuous family system can best be described as character disordered. Interactions among family members are characterized by acting out behavior and poor impulse control, which serve as substitutes for direct verbal communication. No one talks about what is really going on. This type of family system tends to foster narcissistic, self-centered personalities in its members. Given these characteristics, it is not surprising that family violence is a common accompaniment of incest: in 47 percent of the incestuous families seen in Ramsey County, physical abuse of children had occurred; in 39 percent, physical abuse of the wife was reported. Sexual abuse is frequently transmitted from generation to generation. Offenders often were child victims, and current victims may victimize others.

For the sake of simplicity, we have described the family structure of victims of father-daughter incest. It should be kept in mind, however, that the victim may be a male child and the abuser may be a family member other than the father.

Socioeconomic status is of no help in identifying incest. Incest appears to occur at all levels of income and education. Most of the families we have seen present an appearance of respectability. The father has been a good provider and often insists on such things as regular church attendance. Respect for the father is demanded of the children, and once the incest has been exposed, the mother usually resists informing the siblings in order to preserve the father's image of respectability. However, the "secret" of father's sexual deviation is generally a secret only in that the mother is unaware that the children already know and may also be involved.

Ordinarily, the sexually abusive family is united by very strong, though pathological, bonds. Whether a separation occurs voluntarily or involuntarily as the result of community intervention, eventually the family is likely to reunite. These families have been self-contained, socially isolated systems, highly resistant to intervention by outsiders. Effective intervention strategies must be geared to penetrating the system, relaxing the rigid boundaries and allowing input from outside, while accomodating the family's press to ultimately reunite.

## CHARACTERISTICS OF THE MOTHER

In our practice, we have observed two relatively distinct personality types among mothers of incest victims. The more common is the dependent individual who reverses roles with her daughter. The child assumes her mother's responsibilities for all family members and takes care of her mother's emotional needs as well. Although this kind of woman seems to abdicate her wifely role, she nonetheless resents her daughter's favored position with her husband. Her feelings for her daughter alternate between jealousy and motherly concern. The woman's dependency on her husband requires her to ignore hints and signs and to believe her husband over her daughter when confronted with the fact of incest. This confrontation usually occurs when the daughter tells her mother, sometimes years before it comes to community attention. The mother's denial allows the incest to continue.

Less common is the stronger mother who frequently is working and can be financially independent. This woman takes a strong parenting role and can verbally

express her ambivalence toward her daughter and her rage toward her husband, whom she casts out upon learning of the incest.

These differences in personality type may be blurred in the data compiled by Ramsey County. One cannot tell from these data whether the high rate of physical abuse by husbands and alcohol abuse among the mothers of incest victims (26%) is primarily associated with the dependent personality type. We suspect that this is the case.

## CHARACTERISTICS OF THE FATHER

In 60 percent of the Ramsey County cases, the sexual abuser was the natural father of the child. Thirty-nine percent were stepfathers or other males functioning in the role of a father. Our experience suggests that the psychological impact on the victim does not differ between cases of abuse by natural fathers and abuse by stepfathers of long standing who have become psychological parents to their stepdaughters.

Within the family system, the sexually abusive father is typically overcontrolling and overly restrictive. Many of the fathers we have seen require their teenage daughters to come home immediately after school and forbid their participation in normal recreational activities that would permit interaction with boys of their own age. They maintain their control through excessive discipline, even to the point of physical abuse. Their wives are equally subject to their tyranny. Sometimes they exercise their control by means of special favors granted to the victim. The mother may perceive the victim as spoiled by the father, but his gifts actually serve as bribes to elicit sexual favors and/or to maintain secrecy.

A defining feature of incestuous fathers is their difficulty with impulse control. They frequently believe that they "need" sex and must have it readily available to them at all times. We have documented their poor control of their anger in the statistics on family violence. Other indications of their poor impulse control include a 65 percent rate of alcohol abuse and a 37 percent rate of previous criminal records among these men.

When confronted with their incestuous behavior, the fathers almost always initially deny the accusation. If their denial is not accepted, they may eventually admit the behavior, but project blame for it onto their daughters and their wives. They may admit to some "lesser offense" than that with which they have been charged by the daughter, thereby justifying an attitude of righteously indignant innocence. Even when admitting to the full range of their abusive behaviors, they may avoid responsibility by minimizing the seriousness of the consequences to their daughters and families, or they may acknowledge the consequences but attribute them to the intervention of outsiders.

## INDICATORS THAT A CHILD/ADOLESCENT MAY HAVE EXPERIENCED SEXUAL ABUSE

The following list summarizes the behaviors we have discussed in this chapter as associated with family sexual abuse of children:

1. Depression

2. Withdrawal — e.g. child with few friends
3. Isolation from peers
4. Drug/alcohol abuse
5. Chronic runaway
6. Increase in physical complaints — e.g. headaches, miscellaneous illnesses
7. Attention-getting behavior — inappropriate acting out
8. Suicide attempts
9. Physical abuse — self-inflicted or inflicted by parents
10. Poor self-image — reflected in choice of clothing, overall appearance, cleanliness
11. Truancy — i.e. skipping school/classes
12. Drop in academic performance
13. Limited participation in organized social activities
14. Overly seductive behavior — Lolita Syndrome
15. Bi-sexual/homosexual experimentation
16. Repeated rape victim
17. Prostitution
18. Promiscuous sexual behavior
19. Heavy child care responsibilities
20. Heavy household responsibilities — e.g. regular responsibility for laundry, meal preparation
21. Overly restricted social activities

Behavioral Signs Among Young Children.

1. Excessive masturbation
2. Encopresis (fecal soiling)
3. Severe nightmares
4. Regression in developmental milestones
5. Explicit knowledge of sexual acts

6. Clinging/whining to a particular parent (non-abusive parent)

7. Open sexual behavior after age 5-7

## LONG-TERM PSYCHOLOGICAL EFFECTS ON THE VICTIM

Earlier we discussed personality characteristics by which incest victims could be identified. These characteristics are the psychological consequences of incest. The effects in adolescence include depression, acting out — including promiscuity — and confusion about sex. Lasting effects of incest are apparent in the longitudinal studies. Vestergaard (1960) contacted 16 incestuous daughters ten years after the termination of incest and concluded that the incestuous relations had been almost invariably damaging and sometimes resulted in pathological acting out.

Virginia Jacobson (1978), a clinical social worker, has commented on her observations on the long-term effects of incest. She states that the sexual experience with the father has profound negative effects on the development of a woman's identity and that residuals of the incest can include difficulty experiencing a non-sexual relationship with a man, continuing guilt and shame, and great anger.

When women are deprived of the experience of a non-sexual relationship with a man, they tend to see themselves as sex objects. They learn to use sex manipulatively and to trade it for extra favors. Their relationships with other women are affected as they perceive all women as sex objects of limited worth, whom they hold in contempt. They adopt a cynical, defensive, ambivalent stance vis-a-vis men. The limited scope of their experiences with men reinforces generalizations such as "all men are animals."

As a result of encountering society's shock and disapproval, the incest victim feels shame. The shame compounds the guilt she feels about taking her father from her mother and for receiving special favors and sometimes good erotic feelings from her father. Shame is particularly hard to treat as it involves a *basic* feeling of badness and hopelessness.

Women who have been sexually abused experience great anger. They feel that their dependency and powerlessness in relationship to their fathers have been exploited and used. They also experience enormous anger toward their mothers for not protecting them.

Women who were sexually abused as children and experienced no intervention exhibit a wide range of problematic behaviors in adulthood. Possible outcomes of incest include promiscuity, prostitution, complete aversion to sex, lesbianism (of a type seen as reactive to early sexual trauma), marital dysfunction, drug dependency, depression and suicide, and classic hysteria.

It has been found that a high percentage of women with sexual problems have a background of being abused as children. Dr. James (1979) reports that sexual abuse, especially incest, is a significant factor in the background of many young women who become prostitutes. Based on her research data, she estimates that the percent is between 17 and 22 percent. In a report of the Chicago Vice Commission, 51 of 103 promiscuous women examined reported having had their first sexual experiences with their own fathers. In another study of 160 women who fell under the category of an individual "who cannot accept her own sexuality regardless of how she practices sex," it was found that 90 percent had been raped during childhood (Baisden, 1971).

Odyssey Institute surveyed 118 female drug abusers in New York and found that 44 percent of the women experienced incest as children (Ms. Magazine, 1977). At the Minnesota Correctional Institution for Women in Shakopee, Minnesota, it was found that 50 percent of the participants in an institution drug abuse program were incest or rape victims (Shumate, 1978).

Even with intervention, the effects of early sexual trauma can remain. While at certain periods the former victim may function well and feel intact, at times of life or developmental crises the effects of incest can return with terrifying impact. The onset of adolescence, the decision to marry, the death of either parent, the onset of parenthood, and the developmental crises of the victim's children call all be periods of stress which reopen old wounds. Realistic intervention strategies include the recognition of the recurring nature of traumatic effects and the preparation of the victim to seek help for these as needed.

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## CHAPTER FOUR

## THE REPORTING STATUTE

# Most doctors don't report child sex abuse, study says

By C.G. McDANIEL
Associated Press

CHICAGO—Fifty-eight percent of all doctors who responded to a recent questionnaire said they did not report cases of child sexual abuse, even though they are required to do so by law.

Reasons given by the physicians were that they thought reporting the abuse might harm the family, that the problem could be handled more easily privately, or that they were dissatisfied with the manner in which state social service agencies handle the cases.

THE STUDY, reported in the Sept. 8 issue of the Journal of the American Medical Association, said, "Child sexual abuse is a more frequent and severe problem than presumed."

The researchers, Fred Stauss and Drs. Jennifer James and William Womack of the University of Washington's Department of Psychiatry and Behavioral Sciences in Seattle, said that "sexual abuse of children is a growing concern nationally."

They cited studies in a number of communities that show the number of reported cases has been growing dramatically.

Their study found 102 cases of sexual abuse, most often involving intercourse or molestation by the father or stepfather with a daughter. There were 57 such cases.

There were also cases involving sexual abuse by another relative, acquaintance, such as a babysitter, or stranger.

THERE WERE NO reported cases of sexual abuse of boys by either male or female adults.

The research team sent a questionnaire to 300 general practitioners and pediatricians in the Seattle area. They got replies from 96, of whom 51 reported seeing at least one identifiable sexually abused child annually. They reported seeing an average of two and as many as five cases within the last year.

In addition, each of them saw at least one case, and as many as seven, that were thought to have involved sexual abuse but which were not reported to the physician as such.

The children's trauma from the experiences was considered to be minor in only 7 percent of the cases reported. The others ranged from possibly serious to very serious.

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The Minnesota Legislature passed a mandatory reporting law in 1975 which was amended in 1978 (Minnesota Statute 626: See Appendix A, Chapter 755 — Reporting of Maltreatment of Minors). This law makes it mandatory for most people working with children to report suspected physical or sexual abuse of children to Child Protection Services. In order to better understand our responsibilities to the abused child, we must have an understanding of this law and its ramifications.

## GENERAL RULES FOR REPORTING SEXUAL ABUSE

1. If you have contact with or have responsibility for children in your work, you are probably mandated to report any suspected abuse.
2. You must report suspected abuse if you have knowledge about the abuse or if you have reasonable cause to believe a child is being sexually abused.
3. You must report your suspicions personally.
4. You must report immediately.
5. Do not attempt to investigate the case on your own.
6. Do not contact the child's parents on your own.
7. Oral reports must be followed as soon as possible by written report.
8. Reports can be made to either the police department or the welfare department.
9. You will be immune from civil liability if you report in good faith.
10. If you fail to report you can be punished criminally.

## WHO MUST REPORT

RULE: Generally, anyone who works with children or is responsible for children in a professional capacity.

Specifically, the statute is directed at people who are involved in:

1. The healing arts — for example, doctors and nurses
2. Social services — for example, social workers, probation agents
3. Hospital administration — for example, emergency room admitting personnel, directors of hospitals
4. Psychiatric or psychological treatment — for example, counselors, psychiatrists, psychiatric social workers, psychologists
5. Child care — for example, employees in day care centers, nurseries
6. Education — for example, teachers, school counselors, coaches

7. Law enforcement — for example, police officers

Others may voluntarily report any case of suspected abuse with the same statutory protections.

## WHAT MUST BE REPORTED

RULE: All cases of *suspected* sexual abuse.

Question: What is the purpose of the statute?

Answer: The purpose is to notify the agencies that are trained to investigate abuse cases so children who need protection will get it.

Question: Do you have to be absolutely sure that the child is being abused?

Answer: No. The statute states that the report should be made when you have knowledge of the abuse *OR* when you have a reasonable cause to believe a child has been sexually abused.

Question: Should you try to investigate the case yourself to get more information before you report?

Answer: No. All you need is *reasonable cause* to believe the abuse occurred or is occurring. Let the police and welfare department do the investigating.

Examples of Information Which Would Constitute Reasonable Cause:

1. A child has unusual tear or abrasion in the vaginal area that is not explained by the parent or child consistent with the injury.
2. A child tells the school counselor her father raped her or is bothering her in her bed at night.
3. A child has trouble sitting in school, complains of an infection or itching between the legs and perhaps shows signs of bruising on the face or arms.
4. A juvenile runaway tells her probation officer that she hates her father because he is always touching her body.
5. A small child is taken to the doctor with repeated anal or vaginal infections.
6. A neighbor reports the child's mother believes incest is occurring.

## WHEN MUST THE REPORT BE MADE

RULE: Immediately report.

Do not wait to see if you can find out more information or to see if it will happen again. It will surely happen again, and the next time may be too late. The child may not tell you again if he/she does not feel you responded the first time.

Most importantly, do not contact the child's parents. They will be contacted by the appropriate agency. To contact them early in an investigation may mean that the child will never feel comfortable repeating the information. The parents will most likely apply pressure to the child and the case may be lost forever, and the child's welfare will not be protected. You are under no obligation to contact the parents at any time.

## WHO SHOULD RECEIVE THE REPORT

RULE: Report to the police department or to the child protection division of the welfare department.

A report may be made to either the welfare department or to the police department. It does not matter which agency receives the notice since they are obligated to exchange information and reports with one another.

CAUTION: Reporting the suspected abuse to your supervisor does not relieve you of your individual duty to report the case.

Some agencies have attempted to set up their own, internal reporting process. This will not relieve the individual of his/her own responsibility under the statute. For example, a school rule that states that teachers must report all suspected cases of abuse first to the school nurse or school counselor or principal rather than to an outside agency is placing teachers in the position of violating the law if the report is not actually made to the police or welfare department. The reporting duty rests on the individual.

## HOW MUST THE REPORT BE MADE

RULE: An oral report must be immediately followed by a written report.

The report should contain:

1. The identity of the child.
2. The identity of the person responsible for the child.
3. The nature and extent of injuries.
4. The name and address of the reporter.

While it is necessary to reveal your identity if you are someone mandated to report, your name will remain private information if you choose it to be while the case is being investigated. Therefore, unless and until the abuse is verified and it is necessary to employ some judicial proceeding *and* your testimony is required, your

name will not be released to the child or to the offender. It is important that you identify yourself to have a record that you fulfilled your legal responsibility.

## THE LAW PROTECTS THE REPORTER

RULE: The reporter is immune from civil liability.

If you are one who must report abuse or you have done so voluntarily, and if you have made the report in good faith, you are immune from civil liability. In other words, you have a statutory defense to any suit for money damages by the offender or family unless you *knowlingly* filed a false report or your reporting was done recklessly.

## CONSEQUENCES FOR NOT REPORTING

RULE: You may be charged with a misdemeanor and if found guilty punished by a fine up to $500 and/or 90 days in jail.

If you have knowledge of sexual abuse or a reasonable cause to believe a child is being sexually abused, and your profession is set out in the statute, you must report your suspicions. If it is later determined that you did not report, you may be charged with violating the law. If you are convicted, the judge could send you to jail for up to 90 days and/or impose a fine of up to $500. You do not have the option of not reporting.

## ACTION AFTER THE REPORT IS RECEIVED

RULE: The welfare department must initiate an investigation within 24 hours of the receipt of a report.

If the child is determined to be in a situation which appears to be dangerous to the child's health or welfare, a police officer may take a child into protective custody until a determination can be made of the appropriate action to be taken. The investigators will want to talk with the child first, then with other possible victims and with witnesses. Only after these efforts have been made should the parents be contacted with the verified information.

## APPENDIX A

## CHAPTER 755 — REPORTING OF MALTREATMENT OF MINORS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 626.556, Subdivision 1, is amended to read:

(626.556) (REPORTING OF MALTREATMENT OF MINORS.) Subdivision 1. (PUBLIC POLICY.) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect or sexual abuse; to strengthen the family and make the home safe for children through improvement of parental and guardian capacity for responsible child care; and to provide a safe temporary or permanent home environment for physically or sexually abused children.

In addition, it is the policy of this state to require the reporting of suspected neglect, physical or sexual abuse of children; to provide for the voluntary reporting of abuse or neglect of children; to require the investigation of such reports; and to provide protective and counseling services in appropriate cases.

Section 2. Minnesota Statutes, 1977 Supplement, Section 626.556, Subdivision 2, is amended to read:

Subd. 2. (DEFINITIONS.) As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection by the child's parents, guardian, or person responsible for the child's care, to any act which constitutes a violation of sections 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of section 609.32.

(b) "Neglect" means failure by a parent, guardian or other person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian or other person responsible for his care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child.

(c) "Physical abuse" means:

(i) Any physical injury inflicted by a parent, guardian or other person responsible for the child's care on a child other than by accidental means; or

(ii) Any physical injury that cannot reasonably be explained by the history of injuries provided by a parent, guardian or other person responsible for the child's care.

(d) "Report means any report received by the local welfare agency, police department or county sheriff pursuant to this section.

Section 3. Minnesota Statutes 1976, Section 626.556, Subdivision 3, is amended to read:

Subd. 3. (PERSONS MANDATED TO REPORT.) A professional or his delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement who has knowledge of or reasonable cause to believe a child is being neglected or physically or sexually abused shall immediately report the information to the local welfare agency, police department or the county sheriff. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school or agency.

Any person not required to report under the provisions of this subdivision may voluntarily report to the local welfare agency, police department or the county sheriff if he has knowledge of or reasonable cause to believe a child is being neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency.

Section 4. Minnesota Statutes 1976, Section 626.556, Subdivision 4, is amended to read:

Subd. 4. (IMMUNITY FROM LIABILITY.) Any person, including those voluntarily making reports and those required to make reports under subdivision 3, participating in good faith and exercising due care in the making of a report pursuant to this section shall have immunity from any liability, civil or criminal, that otherwise might result by reason of his action.

Subd. 5. (FALSIFIED REPORTS.) Any person who willfully or recklessly makes a false report under the provisions of this act shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury.

Section 5. Minnesota Statutes 1976, Section 626.556, Subdivision 6, is amended to read:

Subd. 6. (FAILURE TO REPORT.) Any person required by this section to report suspected physical or sexual child abuse or neglect who willfully fails to do so shall be guilty of a misdemeanor.

Section 6. Minnesota Statutes 1976, Section 626.556, Subdivision 7, is amended to read:

Subd. 7. (REPORT.) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed as soon as possible by a report in writing to the appropriate police department, the county sheriff or local welfare agency. Any report shall be of sufficient content to identify the child, the parent, guardian, or other person responsible for his care, the nature and extent of the child's injuries and the name and address of the reporter. Written reports received by a police department or the

county sheriff shall be forwarded immediately to the local welfare agency. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department shall be forwarded immediately to the local police department or the county sheriff.

Section 7. Minnesota Statutes 1976, Section 626.556, Subdivision 8, is amended to read:

Subd. 8. (EVIDENCE NOT PRIVILEGED.) No evidence regarding the child's injuries shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of either a physician-patient or husband-wife privilege.

Section 8. Minnesota Statutes 1976, Section 626.556, Subdivision 9, is amended to read:

Subd. 9. (MANDATORY REPORTING TO A MEDICAL EXAMINER OR CORONER.) When a person required to report under the provisions of subdivision 3 has reasonable cause to believe a child has died as a result of neglect or physical or sexual abuse, he shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency.

Subd. 10. (DUTIES OF LOCAL WELFARE AGENCY UPON RECEIPT OF A REPORT.) The local welfare agency shall immediately investigate and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. When necessary the local welfare agency shall seek authority to remove the child from the custody of his parent, guardian or adult with whom he is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

Section 9. Minnesota Statutes, 1977 Supplement, Section 626.556, Subdivision 11, is amended to read:

Subd. 11. (RECORDS.) All records maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Report records maintained by any police department or the county sheriff shall be private data on individuals except such reports shall be made available to the prosecuting authority. The welfare board shall make available to the prosecuting authority only those records which contain information relating to a specific incident of neglect or abuse which is under litigation. The records shall be collected and maintained in accordance with the provisions of sections 15.162 to 15.168, and an individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be disclosed only (a) by the local welfare agency if the report is found to be unsubstantiated or (b) by the local welfare agency upon court order if the report is found to be substantiated.

Records maintained by local welfare agencies, the police department or county sheriff under this section must be destroyed as follows:

(a) All records relating to reports which, upon investigation, are found to be false shall be destroyed immediately;

(b) All records relating to reports which, upon investigation, are found to be substantiated shall be destroyed seven years after the date of the final entry in the case record; and

(c) All records of reports which, upon initial investigation, cannot be substantiated or disproved to the satisfaction of the local welfare agency, local police department or county sheriff may be kept for a period of one year. If the local welfare agency, local police department or county sheriff is unable to substantiate the report within that period, each agency unable to substantiate the report shall destroy its records relating to the report.

# CHAPTER FIVE
# INFORMATION GATHERING AND ASSESSMENT

## THE TEAM APPROACH

The interdisciplinary, interagency child abuse team is the basic structure underlying the entire intervention process, from reporting, through investigation, to treatment. We see the team as a structure necessary to insure that the community's protection and rehabilitation efforts are as comprehensive, appropriate, coordinated, and effective as our collective efforts can make them.

The necessity of the interdisciplinary and interagency team is based on the following factors:

1. Child abuse is a multifaceted problem, involving social, medical, legal, mental health, and educational components. As such, effective services require use of a wide range of skills and resources from a number of differing professions and community agencies.

2. Communication and coordination of activity does not happen naturally or easily between different professional groups or across agency lines. Ongoing efforts are required to bridge the barriers between professional groups. Each group has its own values, goals, language, role expectations, and view of reality. These can and often do become barriers to the understanding and trust necessary for good working relationships. We probably all agree in general that we should communicate and cooperate with one another, but, as we encounter stress and conflicts in our daily efforts with these especially difficult cases, it is easy to retreat into blame, withdrawal and mutual hostility. It is these human responses that the team is designed to counteract.

The core of the team as it functions in two Minnesota counties, Ramsey and Dakota, is a case review process.* This process provides a way for the numerous professionals directly involved in cases to maintain ongoing communication and to clarify roles and responsibilities amidst the difficulties of each specific case. In this case review process, the commitment of each agency to the team is:

1. To provide services to abusive families; and

*Cooperative Approach to Child Protection, State Department of Public Welfare, St. Paul, Minnesota is available for further discussion of team building and alternative models for team structure.

2. To communicate and collaborate with other team members regarding these services.

Member agencies have *not* relinquished their respective roles and responsibilities; they have agreed to collaborate concerning how these roles and responsibilities are best implemented in each specific case. Thus, the team has no authority in and of itself; rather, it is a forum for the discussion of cases and the coordination of service plans.

The contributions of the team approach can be grouped into four general areas:

1. Increasing the effectiveness of communication between professions and disciplines about child abuse. Through the sharing of information, more complete and accurate knowledge regarding individual families is gained and leads to more effective treatment plans.

2. Enabling services to be delivered to the family in a coordinated manner, with planning and services individualized to specific family needs.

3. Enhancing the commitment and morale of each professional and agency involved by providing group support for very difficult decisions and actions.

4. Deepening the professionals' comprehension of the nature of the problem and the multiple measures needed to deal effectively with it.

It must be recognized that community coordination is a complex and fluid process. It requires tolerance, patience, and significant efforts on an ongoing basis to keep the process running smoothly. A number of problems typically arise.

1. Internal difficulties within any member agency can interfere with the team's functioning. Agency reorganization or significant staff turnover within any member agency inevitably causes disequilibrium in the team process.

2. Interagency issues of power and politics can intrude, and funding cutbacks can interfere.

3. Issues of professional differences between individual members and/or groups impact upon the process. For example, the appropriate use of criminal prosecution is a controversial issue that tends to be seen differently by lawyers, physicians, police, and social workers. It is only through extended case discussions that the team can evolve a concensus on such issues.

4. The human feelings of each member must be recognized. Professional egos get bruised. Everyone is disappointed at some time with a team decision, or embarrassed regarding his/her own performance. Every agency's "dirty linen" gets aired. It can be tempting for agency or individuals to try to withdraw and "go it alone." The team as a group must build its cohesion with respect and concern for each person's efforts and feelings in a common and very stressful endeavor.

This process asks much from the agencies and especially from the individuals involved. The team attempts to measure its recommendations against the difficult standard of the child's dual need for safety and for a healthly family life. The process

taxes the energies and the skills of the members on many levels. What is asked of professionals is the capacity to deal with complexities, to be open to differing opinions and approaches, and to be flexible in their own role definitions. It further asks them to be tolerant and caring of one another. What is asked of the agencies is the ongoing commitment to a cooperative mode of service delivery, a mode that is time-consuming in the short run, since it takes time to communicate and coordinate case after case. The reward for these efforts is in our increasing understanding of the problem and our improved capacity for effective intervention, both in individual cases and in program planning for the future (see Appendix A, Ramsey County Child Abuse Team Rationale, Structure & Function, Process).

## THE NEED FOR INVESTIGATION

Ideally, we would like to believe that all people want to develop relationships and a lifestyle that are beneficial to themselves and their families. Unfortunately, there are some individuals who are unwilling or unable, at least without outside intervention, to correct problems which are severely damaging to others within their families. Particularly in abuse cases, assuring the protection of the children involved should be the primary concern of those offering services to these families. At the beginning of the investigation phase it is impossible to be certain that the responsible adults will be or will remain cooperative. Too often, in our experience, initial cooperation disappears as fear, family pressures, and the difficulty of change weigh upon the adults involved. It is for these and other reasons that court action, either or both Juvenile and Criminal Court, may become essential. Without outside controls some abusive adults are either unaccepting of any treatment services directed toward change or are only superficially agreeable to avoid further crisis or readjustments.

We have learned that it is critical to begin with an investigation that is as broad and thorough as possible and one that leaves open as many options as possible. We have found it essential to be able to involve both the welfare child protection staff and law enforcement officers in the investigation of reports of suspected sexual abuse. The county welfare child protection staff carries the basic and central responsibility, mandated by law to investigate all such reports. In this, they are asked to make critical judgments about the degree of danger and need for protective action, about individual and family dynamics, and about needed services and resources. Our experience indicates that these judgments can be greatly aided by routinely conducting both a social work and a police investigation. This allows for a more complete information gathering process than relying upon either profession alone. Such an approach strengthens a case for Juvenile or Criminal Court should that prove necessary either immediately or at a later date. Furthermore, even if court is not involved, the more thorough the investigation, the more accurately focused the treatment plan can be.

A note of caution: There is a danger that, in efforts to conduct a thorough investigation, the victim may be subjected to repeated questionnings about the intimate and traumatic details of the abuse. This is not necessary and should be avoided. The professionals involved need to share their investigative findings thoroughly with one another and take care to avoid unnecessary repetition. Such repetition of the intimate details with a number of people can be psychologically damaging to the victim.

We encourage law enforcement personnel and child protection workers, especially, to read Interviewing the Child and both sections on investigation, The Police

Investigation and The Child Protection Investigation. Investigatory tips helpful to both disciplines are found in each of these sections.

## INTERVIEWING THE CHILD

### Limiting Those Present.

It is advisable that only one person question the child and, unless there is a specific reason, no one else should be present. There are definite disadvantages to having the mother present during questioning of the child in incest cases. In the case of the adolescent or teenaged victim, the presence of a parent can seriously curtail the information received.

With a very young child, the presence of a person who is close to the child may be just the reassurance the child needs to talk freely, but consider this carefully. Ask the child in private how he/she feels about this. If the parents are present, the child can feel more comfortable requesting privacy if the interviewer makes a comment such as, "Most kids are embarrassed with their parents present because they care about them, do not want to subject them to this, and would rather be alone."

If the child is of preschool age, if the mother's attitude at *this* time supports the child, and if the mother's visible emotional reactions do not disturb the child, there can be some value in having the mother present. As new information unfolds spontaneously, the mother is again forced to face the reality and the extent of the problem. She may say things at this time to help the child to feel less guilty, even though she may later turn against her child. The mother may also provide corroboration as she learns details of the offense.

Keep in mind, however, that the mother can interfere with the questioning. She often is very passive until learning about the incest, when she becomes defensive because of feeling guilty for failing to protect her child or for her actual negligence. If there is someone present who quite obviously is disturbing or interfering with questioning, see what you can do to remove that person.

### Establishing Rapport.

Before asking pertinent questions, establish a relationship with the child. Put the victim at ease through pleasant, friendly conversation that shows you are interested in the child as a person and that there is no reason to be afraid. If you don't help the child to relax, you won't get the information you need.

Talk about feelings with the child — the victim's fears, sadness, or confusion. The interview can be very frightening. Keep in mind the strong sense of shame and guilt in incest families and their sense of secrecy about the sexual abuse. Explain to the child who you are and what you are going to do. Invite the child's questions.

With small children, avoid taking notes, if possible. Notetaking distracts them and you lose contact with them. A tape recorder allows freedom to concentrate attention on the child while still getting accurate quotes, which are especially essential with young children. Since tape recorders can frighten small children, they may be hidden until the questioning is finished. The children may then be shown that they have been recorded as though it were a game, the interviewer playing their first few words and telling them how well they have done. The recording can later be played to the child prior to trial to refresh the memory.

If you are using a tape recorder with older children, you can use the relationship building portion of the interview to allow them to become comfortable with being recorded. Teenagers, in particular, will react very negatively to an attempt to hide a tape recorder.

Questioning the Child.

Children's short attention span sets a time limit on questioning. The interviewer must move quickly without appearing to do so. Explain what you are going to do: for example, "I am going to ask you some questions like they do at school. If you don't understand the question, ask me about it." Explain what a stenographer is, if you are calling one in. The interview is much less frightening if it is predictable.

Approaching children slowly, patiently, and calmly has a positive effect on them. Keep questions as short as possible and wait for answers. Some children take a little longer to answer. Use body language, such as positioning yourself at their level, to hold their attention and encourage them to talk.

If you are informal and natural, children will more likely be at ease. Similarly, if you feel embarassed talking about sex, they will sense this and feel embarrassed. Acknowledge that they might feel embarrassed, saying, for example, "I know some of these questions might be hard to talk about, but I'll try to make it as easy as possible for you." Don't condemn the sex act itself, but the manner in which the child is being exploited. For example, if the child has described oral sex, calmly reassure her that this is wrong between a girl and her father, but may be right for her at another time in her life.

Give children reinforcement and help them to feel that they are doing well, both during and after the questioning. They will then feel that they have accomplished something and will be eager to cooperate with you in the future.

The best basic rule in obtaining information is to get a step-by-step chronological account of what happened. Be patient and allow the child to give information willingly and naturally.

Some children talk spontaneously. Allow them to give their accounts without interrupting. Encourage the child to talk, but be careful not to suggest things. It is important to get the answers from the child, but it is equally important that you are not telling the victim what happened. Use open-ended questions and avoid questions which suggest the answer. Questions which can be answered with yes or no are leading questions. For example, avoid, "Did he touch you on the breast?" and ask instead, "Where did he touch you?" Children especially are very suggestible. Don't jump to conclusions as to what happened. You may be very surprised at answers.

Don't put words in their mouths. Use their own words and find words with which they are comfortable. The use of dolls, illustrated books, or their own drawings may be of assistance in identifying parts of the body or in describing what happened.

Use language that is appropriate for the age, sex, and intelligence of the victim. Most children are not clear as to what sodomy, cunnilingus, anus, rectum, etc. mean. Don't say, "Did he perform an unnatural act on you?" They may think an unnatural act is kissing on the neck or jumping off a bridge! Don't use vague terms, such as "private parts." Some people consider an armpit private.

Help children to feel comfortable giving their accounts in their own words, and don't react to unusual terms. It can be tough for a child to say "asshole" to an adult, and the only word he/she may know for intercourse might be "balling." Accept their terms and clarify, if it is necessary.

> Case example: A nine-year-old girl had been raped. Every time she used the word "wiener," her mother shuddered, and the child cringed. The interviewer, by ignoring the mother's reaction and repeating the term wiener, communicated to the child and mother that the child's language was acceptable.

Sometimes you might want to be more direct: "There's nothing wrong with that word. Lots of people use it. I've heard it lots of times."

Encourage the child to talk freely and don't try to redefine the situation as being either more or less alarming than the child sees it. Children may not react as strongly as their parents, but children are affected by the reactions of others. Avoid trigger words, such as incest, rape, etc., which may alarm the child.

There has been a tendency to over-react to incest as a nameless sexual evil with disastrous effects. It is important to respond to the victim of incest with warmth, objectivity, and acceptance, so that the child is not bound up in sexual fears and the entire process which follows is not demoralizing and ineffective. We can help the child recognize the fact that sex is simply a part of life, one of the ways in which people relate to one another. It has the potential for either good or bad. If we are irrational about sex, it is not because sex is an irrational force, but because we choose to be irrational. We cannot afford to be irrational at a time when a child comes to us in serious need of common sense and good judgment.

## THE POLICE INVESTIGATION

A police investigation should be conducted in sexual abuse cases regardless of what, if any, court action is contemplated. Sexual abuse cases involve the most severe accusations of parental maladjustment and require uncontaminated, admissible, and documented evidence for successful court presentations. Investigative training and skills are required that are often not available in non-police professions which have been traditionally expected to offer treatment services. A thorough police investigation providing accurate and complete information is essential to properly assess the case and to determine appropriate goals in working with the family.

The incest investigation must be initiated and completed as quickly as possible after the report is brought to the attention of outside authorities. Because attitudes change quickly and evidence is lost, it is urgent that family members each be carefully questioned immediately after they become aware of the investigation and that this questioning be documented. When the police initiate an investigation, it is important that other associated professionals coordinate information and actions with police and that their direct contact with victims and witnesses be curtailed until the immediate investigation is completed.

For simplicity, since father-daughter sexual abuse cases are the cases most frequently reported to police, reference is primarily to this type of case. It should be emphasized, however, that sexual abuse occurs in all types of family relationships. During the investigation of father-daughter incest cases, it frequently has developed

that brother-sister incest or incest involving other relatives is also occurring. The possibility that male children may also be involved as victims should be in the forefront of the investigator's consideration of such cases. Although much less commonly reported, female adults have also been known to be perpetrators.

Assessing the Reporting Source.

If the reporting source is other than the victim, as much detailed information as is possible should be obtained before the initial contact with the victim. How did the reporter obtain the information? Was it from direct observation, suspicion, or verbal complaints from a family member? Carefully prepared background information greatly facilitates the questioning of the victim.

Questioning the Victim.

The child victim should be interviewed first before proceeding to contact any other family members. If the parents are aware the child is to be questioned, they may interfere and attempt to prevent the report. A private interview may be arranged at the school. This is an extremely difficult interview, upon which the entire outcome of the investigation is based. The child must be supported and reassured that he/she is not to blame. The victim must trust that the results of providing the report will be an improved lifestyle or he/she will not provide complete information. (See the preceding section, Interviewing the Child, for specific, important interviewing techniques with children.)

In questioning the child, you want to accomplish two basic purposes:

1. Determine whether the child is able to differentiate truth from fiction. The officer can assist the county attorney through the child's statement with such questions as "Can you make up a lie for me so I'll know that you know what a lie is?" Then, "Have you told me any lies?"

2. Obtain basic elements of the crime. In the case of small children, even the required information of time and place of the offense can become a problem. Use daytime, nighttime, school days, birthdays, TV shows, holidays, etc., to obtain a reference point for time. If possible, relate the offense to other events that can be checked. Determine the most recent offense, the first contact and generally the extent of the offenses.

Whether the child has initiated the report or the report was received from another source, the police officer may be confronted with the immediate problem of the child's safety. When it is possible, the offender, rather than the child, should be removed from the home. In those cases where the offender is likely to bail out of jail or to become violent, it will be necessary to remove the child from the home. Placement of a child outside the home should be based on the following factors:

1. Threat of immediate physical harm

2. Protection of child from continued sexual abuse

3. The child's fear and attitude

4. The need to prevent coercion of the child by one or both parents

Police officers are authorized to remove the child from the home for 36 hours (Minnesota Statute 260.165). The social worker should be contacted immediately so that a petition in Juvenile Court can be initiated to retain jurisdiction over the child when the 36 hour hold expires. (See Detention Hearing and Petition and Summons, in Chapter Six.)

After first helping the child to relax, determine from the child:

1. The most recent incident of incest, including a detailed sequence of events and the specific act itself.

2. The duration of offenses, including the initial contact, the nature and frequency of the molestings, and any specific dates available. A specific date of offense must be determined if prosecution is to be considered.

3. Are there any possible witnesses? This could be someone who merely came home early and felt it suspicious that the victim and offender were in the bedroom alone with the door closed, someone who heard the victim crying, or someone who actually saw the offense. Friends of the victim, babysitters, and other relatives are often surprising witnesses or additional victims.

4. Who has the child told about the offense? A person whom the victim may have told immediately after the offense can be an excellent corroborating witness. Also, if the child told his/her mother, it is significant to know whether the mother took action to protect the child, if she chose to ignore him/her, did not believe the child, or just hoped it wouldn't happen again.

The following section, Child Protection Investigation, offers additional suggestions of questions to ask in order to obtain the information you seek.

A medical examination of the child may be indicated. Although incest is seldom reported immediately after the offense when sperm may be present, the medical examination may demonstrate the extent of penetration and provide treatment for possible injuries and venereal disease, although venereal disease is uncommon among these victims. This examination can be traumatic for the incest victim and should be carefully considered and tactfully explained to the child (see Gathering of Medical Data concluding this chapter).

Questioning the Mother.

The parents of the victim should never be questioned together. The presence of the husband or wife can greatly limit or distort the information obtained. It is usually easier to maintain control of the case and less likely to create an immediate crisis if the mother can be located alone and questioned before the abusive father is aware that the complaint has been made.

Although the mother frequently expresses surprise about the incest, she may relate earlier suspicions which may become relevant and should be noted. Subtle comments made by the mother may indicate her previous knowledge and denial of the incest. The nature and/or change in the mother's relationship with her husband may also be significant.

The mother is usually receptive to the child's temporary removal from the home, although her willingness seems to decrease as the age of the child decreases. Unless

she has actually witnessed the incest and summoned the police to the scene of the offense, the mother is usually reluctant to separate from her husband and, if she does, she often will reunite with him.

The mother should be considered extremely *unreliable* during the entire investigation. Even if she initially accepts the offense as valid, she may later deny it or blame the child. She frequently is very protective of her husband and dependent on him. If the mother can provide corroborating evidence, such as in witnessing the offense, a written statement should be obtained immediately because she may later refuse to provide any information. This may be especially true if she has been married previously and the offense involves her second or third husband.

If it is explained to the mother that the officer is aware that this is a very difficult situation for her, that there will be professionals to help her and the family, and that the police responsibility is to assure the child's safety, the mother is more likely to be cooperative. She may retaliate if the officer is quick to condemn her husband's actions rather than seeks facts and explanations. Because it is easier emotionally for the mother to deny that the offense occurred, it is important to convey to the mother the validity of the offense, rather than argue about this. The investigation proceeds more smoothly, and it is far easier for the child, if the mother is able to accept the facts of the offense.

The mother can be a source of information and evidence. With her consent, she may be able to supply the police officer with physical objects which may corroborate the victim's statements. Such items as pornographic magazines, contraceptives, sexual paraphernalia, bedclothing, or personal clothing should be taken into custody as soon as possible.

Basic information on the following topics should be obtained from the victim's mother at the first interview:

1. Victim's medical history

   - names and locations of physicians who have treated the victim
   - a description of any infections in the vaginal or anal areas
   - any unusual pattern of physical or emotional illnesses

2. Victim's education history

   - the names of schools the victim has attended and dates of enrollment at each school
   - names of the victim's teachers

3. Other possible victims

   - obtain the names and addresses of any other young people who may have been in the home: for example, babysitters, relatives, or friends of the victim

4. Family history of the abuser

   - size of the abuser's family and the sexes of siblings
   - whether anyone else in the abuser's family has ever been involved in or accused of criminal sexual conduct

- whether anyone in the abuser's family has tried to be sexual with the victim or other members of the victim's family

5. Personal background of the mother

- whether victim's mother has ever been sexually or physically abused

The information described above can be useful to corroborate the victim's statements. For example, the medical records may show a history of unexplained vaginal infections or a school file may contain a notation that the victim reported to his/her teacher of being abused at home. Even though no one piece of information may be significant, the information taken together may demonstrate a familiar pattern to which an expert could testify. Finally, the mother may be able to provide names of other possible victims.

Questioning the Father.

Questioning of the father can be most effective in the police station. Frequently, he will come in voluntarily if asked and if immediate arrest is not indicated.

An emotional approach to questioning the incestuous father is often effective because he will frequently express guilt about the incest and relief that the "secret" is out. Encouraging the father to explain his own difficulties in childhood, marriage, sex, etc. allows him an opportunity to "save face." If he is one of the incestuous fathers who appears to feel that sexual abuse is appropriate, justified (as with certain religious arguments), and acceptable, a matter-of-fact, "no big deal" approach might be effective.

If the father admits the sexual abuse, an attempt should be made to obtain specific information about each incident, especially where dates may be available. Details, such as the exchange of money, which corroborate the child's account lend further credibility to the complaint. If the father is reluctant to admit the sexual abuse, playing a tape recorded statement made by the victim may persuade the offender to admit his sexual involvement.

The Offender portion of the following section, The Child Protection Investigation, offers additional techniques for obtaining information from the sexual abuser.

Obtaining Statements from other Witnesses.

Based on information obtained from the victim or the mother, interviews should be conducted with the following people, and statements should be taken when appropriate:

1. Other possible victims — the victim's sisters and brothers, babysitters, relatives, or friends who have been in the victim's home.

2. People to whom the victim may have spoken or reported the abuse.

3. People who may have observed signs of abuse — for example, teachers, doctors, school nurse, school counselor, neighbors.

Research Findings.

Utilize knowledge about incestuous families during the investigation. Research generally indicates:

1. The child reporting sexual abuse is usually telling the truth.

2. The oldest daughter is most frequently the first victim.

3. Incest will continue with this victim and other siblings unless there is effective intervention.

4. The incestuous father is frequently chemically dependent (most often alcoholic) and physically violent to family members.

Follow-up.

The investigation should be referred to the local child protection agency, which can provide considerable assistance during the investigation and can provide services to the family. Many prosecution cases are successful because of the ongoing support provided to witnesses by social service agencies.

## CHILD PROTECTION INVESTIGATION

The welfare department has the primary responsibility for the investigation of suspected sexual abuse. As explained earlier in this chapter in The Need for Investigation, we feel that this responsibility is best handled in a shared fashion between welfare and police departments whenever possible. A coordinated multidisciplinary approach to the situation best serves the victim and all members of the family. The investigation of a report of possible sexual abuse of a child should be handled as a matter of utmost importance by a group of trained professionals who function in a spirit of cooperation, keeping in mind the common goal that the primary purpose of their intervention is to protect the child who has been the victim of sexual abuse.

The Report.

Minnesota Rules Department of Public Welfare (DPW) 207 mandates that the welfare department respond to all reports of the sexual abuse of a child within 24 hours.

When receiving a report of possible sexual abuse, it is helpful to gather as much data as possible:

1. Find out who else may be knowledgeable about the situation.

2. Check agency records to see if any other family problems have been identified.

3. Gather as much information on family members as possible. At times a family physician or other helping professionals may have information.

Contact the appropriate police department or sheriff immediately. Often a department may designate and train one or two officers to work specifically with child protection cases; the sensitivity such an officer develops is invaluable. Share all pertinent information with the officer. This enables the officer to be much more effective. At this point, law enforcement personnel can check for previous offenses by the suspect.

It is often helpful for juvenile petitions that the social worker notify the county attorney's office of the current situation and keep them informed of the developments.

The Victim.

Contact the victim in person *immediately*. A police officer or sheriff should accompany you. The victim should not be contacted in the presence of the alleged perpetrator. For a school-aged child, visit the child at school. Principals and school counselors usually are most helpful. If the child is preschool age, a visit to the home when the alleged perpetrator is known not to be at home may be necessary. Alternatively, the child can be brought to a mutual meeting place. If the alleged perpetrator is present when the investigators arrive, have one party, such as a police officer, separate the perpetrator from the child while the child is interviewed.

Only One Person Should Interview the Child.

The police officer may be the member of the team best trained to take admissible evidence for possible later court action. As few persons as possible should remain in the room during the interview, but even if the officer is not conducting the interview, have the police officer or sheriff remain in the room. Often children can tell you whom they want present or with whom they feel most comfortable talking. Mothers may or may not be present. For techniques for interviewing the child victim, see the earlier section in this chapter, Interviewing the Child.

For possible criminal prosecution and/or for the worker's own use, it is advisable to tape record the interview. Be sure to test the tape recorder's working order. In the beginning of the interview, enter on tape the vital information: date, time, place, and identity of all present. It is important to allow the child to become comfortable with the tape recorder. Oftentimes treating it very casually and matter-of-factly helps (see Interviewing the Child). Before asking about the abuse, establish rapport with the child.

When interviewing the victim, get as many specifics as possible. Attempt to identify when the sexual abuse began, getting as accurate a date as possible. Use daytime, nighttime, school days, birthdays, TV shows, seasons, holiday decorations, etc. as reference points for time, as children often have a hard time placing events in a time frame. Find out how old the child was when first abused and where the abuse took place. Again, be specific; for example, which room, house, and city. Have the child tell you, in as much detail as possible, what took place and with whom. Have the victim identify what parts of the body were involved, how it felt, how any clothing was removed, what other aids were used like lotion or objects, etc. Be sure to secure an accurate statement as to penetration — what part of the body was entered and by what. Ask the child what was said before, after, and during the sexual contact. Find out what threats were expressed and how, such as by kicking the child, physically overwhelming the child, or by verbal threats.

Determine how often, where, and what kinds of contact took place. Be sure to be specific and to use the child's words. It is important to learn as much as possible about the sexual contact. Did the offender place the child's hand on his genitals and hold his hand over the child's? What kind of movement did the offender make? How was his breathing? Very often many kinds of sexual contact take place in one incident; for instance, find out if the offender fondled the child's breasts first and then masturbated. Identify where the offender's hands, legs, genitals, as well as movements were at different times during the sexual assault. Find out what the child felt in or on his/her body or bed. Was it wet or sticky? Did the child have pain the next day and where? Was there blood? What did the semen taste like? Often, a child will cope with the experience by pretending to be asleep. Feigning sleep can be a child's way of denying that the painful experience is really happening or of indicating that he/she is not participating willingly.

Be sure to have the victim tell you when the last sexual contact took place, where exactly, by whom, how old the victim was, and how it took place. Be sure to get specifics. If the sexual abuse took place on a regular basis, it's often not necessary to have the child tell you of every incident in detail, but be sure to get as accurate an account as possible of how many times sexual contact took place and what that contact entailed. A helpful question to ask is if anything different ever happened and, if so, when, how, and what. Children don't often have a good idea of the duration of each actual incident, but they often can tell you if something interrupted the offender, such as someone coming down the hall.

At the end of the interview, ask the child who else has knowledge of the sexual abuse, for instance, a relative, friends the victim has told, or other family members involved. Find out whether anyone else was present during any of the sexual contact. Learn what knowledge the mother has of the child's situation. When and how did the child try to or tell her, and did she take action to protect the child? What did mom say and/or do? If the contact has taken place recently or if the child has been injured, get the child medical attention immediately. All other victims should receive medical attention when the time is right (see the following section, Gathering of Medical Data). Working closely with the police or sheriff helps secure information from the child about any evidence, such as pornographic material or sexual aids. If a statement needs to be typed or signed and corrected, make arrangements to do so. Also, keep in mind the child's need for ongoing counseling, sex education, or other services.

When interviewing a child victim of sexual abuse, assume that the information the child is providing is truthful, although not necessarily complete. Victims talk when they are ready; this may be on the first contact, or they may reveal more when they feel secure and protected. Be aware that a child may report the sexual abuse as a last cry for help, and the risk of suicide can be high (see Mental Illnesses/Emotional Disturbances, in Chapter Seven). The victim of incest may also act out undesirable or destructive behaviors (see Characteristics of the Victim, in Chapter Three). If you are interviewing a younger child or a hesitant child, play techniques using dolls, pictures, clay, and drawings can help show you what the child cannot tell you. Be creative!

**Placement.**

Under Minnesota Statute 260.165, a child whose health or welfare is in danger can be placed under the custody of the welfare department by a police officer. Ideally, if a social worker and police are working together, the decision to place a child should be a mutual one. The child should be placed in a foster home or shelter if there is an immediate threat of physical and/or sexual abuse to the child or if the child fears the attitude of the parents or coercion by them.

**Siblings.**

It is important to interview all children in sexually abusive families. Sexual abuse does affect each member of the family, whether they are physically involved or not. Raising questions as to what the victim's siblings saw, heard, and felt can provide the investigator with a more detailed or clearer picture of the abuse situation, as well as lay the groundwork for treatment of all family members. Remember, it is not at all unusual for an offender to be sexually active with more than one victim at the same time. Be sure to find out from the child's siblings to whom the offender has been abusive in the past. Victims may be of the same and/or opposite sex. Remember, too, that older siblings are often sexually abusive to younger children in the family.

**Non-Abusive Parent.**

When investigating an incestuous situation, it is imperative to learn the role of the non-abusive parent. As mentioned earlier, ask the victim as well as other family members if, when, how much, and what the other parent was aware of and what was said or done by that parent. It is especially important to define what steps, if any, were taken to protect the child or children.

Often in sexually abusive families where the father is the perpetrator and the victim is a female, the child will assume the role of the mother, performing tasks such as taking care of younger siblings and doing housework. The mother, or non-abusive parent, may or may not be aware of the incest; in many cases the mother blocks out what may seem like obvious signs of inappropriate behavior to the outsider (see Characteristics of the Mother, in Chapter Three). Many, if not most, mothers in such families are incest victims themselves and need to deal with their own childhood experiences. It is important to keep in mind the family's deep sense of shame and secrecy and to approach family members in a non-judgmental manner.

**The Offender.**

The police or sheriff is expertly trained to investigate or interrogate the suspected offender in a case of criminal sexual conduct (see preceding section, The Police Investigation). A full and complete statement needs to be taken from the suspect after completion of the preliminary investigation, which includes the victim's statement. It is important to get specific information — when, where, what took place, and how often. In dealing with a sexual abuser keep in mind the strong denial system the offender has and, again, don't be judgmental.

When interviewing the suspected offender, officers may use a variety of approaches, such as:

1. Direct — asking for their cooperation in the statement
2. Emotional — being friendly; inviting the abuser to get it off his/her chest
3. Authoritative — emphasizing the known facts of the case

Helpful interviewing techniques may include sitting or standing close to the suspect; not discussing specific details of the case in the beginning of the interview; or using tools such as a tape recorder, psychological stress evaluator, polygraph, or psychological testing. If the suspect makes comments such as "What if," "I can't remember," "I only," you are on the right track. Be sure to have the suspected perpetrator read over and sign the completed typed or written statement.

Collateral Contacts.

Interviews should be conducted with or statements taken from individuals who may have information relating to the sexual abuse. These include: other victims; relatives such as the offender's nieces, nephews, or victim's grandparents; neighbors, especially the victim's associates, playmates, or babysitters; the family physician, for any history of the child having venereal disease, injury or irritation to the genitals, vaginal infections, etc.; and other professionals involved in the family, such as counselors. Be sure to secure signed releases of information from family members.

Court.

A civil petition of dependency or neglect almost always needs to be filed in behalf of the child (see Civil Neglect/Dependency Process: The Use of Juvenile Court, in Chapter Six). Immediate custody of the child can be transferred to the welfare department by order of the court. Court involvement can assist the treatment of the sexually abusive family in many ways, among them, financial help, legal intervention by social services, and further protection of children remaining in the home.

The offender can be charged and/or arrested by police under the criminal sexual conduct statutes (see Legal Definitions of Sexual Abuse, in Chapter Six). A complaint can be, and in most cases needs to be, issued by the county or district attorney's office criminal division. The court can exercise certain jurisdiction over the accused or convicted offender including such actions as ordering the offender to stay away from the victim temporarily, providing for treatment, or imprisonment.

County or district attorneys in civil and criminal divisions can work closely with each other and with social services and law enforcement in such areas as trials (where a criminal conviction may support a civil action), witness preparation, or as expert witnesses for a trial.

Treatment.

Sexual abuse affects every member of the family; the entire family needs treatment. A treatment program should be designed to meet the needs of each individual family member. There are programs and counselors currently providing services to the entire family, as well as such alternatives as treatment groups for peers (victims, offenders, etc.), individual, group and couple counseling, chemical dependency programs, and inpatient treatment programs for sexual offenders (see Treatment Model, in Chapter Seven). Usually, for families of sexual abuse, intervention will be more readily received in a time of crisis, such as when the sexual abuse is brought to light by the investigation.

## GATHERING OF MEDICAL DATA

Children reported or suspected of being sexually abused may need a medical examination. There are two primary purposes of this examination. The first is for medical diagnosis and treatment of any physical injury, possible venereal disease or pregnancy. The second is to gather evidence to support the history of the abuse. If the sexual abuse has been recent, an immediate medical examination should be done in order to assess the signs of trauma and to collect specimens for sperm and acid phosphatase. In the instances where the incest has been ongoing and last occurred beyond 48 hours, the medical examination can be scheduled at a time that is

convenient both to the child and to the physician, allowing adequate time for collection of all the necessary information in a relaxed atmosphere. The examination should be performed by a licensed physician who is both experienced in examining children and aware of the format for physical examination of sexual assaults. The physical examination should be performed under the same guidelines as it is done for rape victims, with equal sensitivity and the same precautions taken to preserve evidence for possible charging of the sexual assault (see Appendix B, Protocol for Medical Examination of Sexually Abused Children).

Medical examinations can seem more traumatic to the child than what she has already experienced. During the medical examination, the patient should be provided with ample emotional support. Exams can be done gently and without pain. Support people working with the child can help her become calm, relaxed and cooperative for the examination. If a family member, social worker, or friend is present and if the child so desires, this person should be allowed to remain with the child for support. The medical facility should assign an appropriate staff member to be present and to meet the emotional and physical needs of the patient.

If there is a written or verbal report from the police or social worker available, this information should be given to the physician prior to the examination. The exact details of the history of the sexual abuse are extremely helpful for the physician to consider during the examination and are an integral part of the total assessment. This information may prevent the child from having to tell the entire story over again. The physician, however, must obtain enough information from the child to be able to correlate the history with the physical examination, to perform a thorough and accurate exam, to report this information to the welfare department, and to recount the details in court later if necessary.

Although many children find it difficult to describe the sexual abuse, attempts should be made to record the exact words of the child.

> Case example: An eleven-year-old girl reported that her stepfather had attempted to insert his finger into her vagina on several occasions, over a period of a few months. Later she described that he asked her to rub his penis "until it became hard"; he then continued to rub it until some "creamy white stuff came out the end of it."

Younger children or extremely shy or inhibited children can often vividly describe the assault by drawing pictures.

The history should include:

1. Pertinent aspects of the sexual abuse:

   - date, time, and place of most recent incident
   - who was involved and who was present in the same place at the same time
   - body orifices involved
   - ejaculation (did it occur — yes or no, and where on the body)
   - onset of sexual abuse
   - who currently knows of the sexual abuse
   - other family members that are involved

2. Menstrual history:

   - menarche achieved — yes or no
   - any abnormalities

A complete physical examination should be performed including vital signs and height and weight. The presence of signs of physical abuse, such as bruises on the body, must be accurately noted and can best be described by anatomical drawings. Photographs should be taken of the bruises. Specific examination of the areas involved in the sexual abuse should also be performed as follows:

1. With the patient in a relaxed comfortable position, the perineal area should be inspected for bruises and lacerations.

2. Moving slowly and explaining carefully, the physician should attempt to insert the index finger into the introitus, assessing the presence or absence of a hymeneal membrane. Any lacerations or points of trauma should be noted.

3. If an index finger can be easily inserted into the vagina without trauma to the patient, a speculum examination of the vagina for inspection for evidence of injury as well as collection of secretions can be performed.

4. If a speculum examination is not possible, and yet there is a history of attempted intercourse with ejaculation, vaginal swabs can be obtained by gently inserting sterile cotton-tipped applicators for wet preparation for sperm motility and acid phosphatase. If a speculum examination is performed, the same specimens can be collected with direct visualization (see Appendix B, Details of Laboratory Testing, in Chapter Six).

If the patient specifically described oral and/or anal intercourse, swabbing of other areas where ejaculation may have taken place can be done in the manner similar to that described for the vaginal swabs. In young children who have difficulty describing in the history the areas of anatomy involved, it is helpful as the examination is being performed to ask, "Where did he put his finger? Where did he put his penis? How did it feel? Did it hurt?"

In no way should the examination be forced upon the child. The child must be convinced of the need and importance of the examination to further protect him/her and other family members from risk of ongoing sexual abuse.

## APPENDIX A

## RAMSEY COUNTY CHILD ABUSE TEAM
## RATIONALE, STRUCTURE & FUNCTION, PROCESS

### RATIONALE

Child abuse is a complex and multi-faceted problem including medical, psychological, social, and legal aspects. No one profession or agency has all the expertise or resources needed to adequately resolve these interrelated problems. Hence, the need is to work together. That is what the team process is designed to facilitate. The purpose of the team is to develop coordination and cooperation among the numerous agencies providing services to abused children and their families. It is a forum for the exchange of information and the collaboration on service plans for these families.

### STRUCTURE & FUNCTION

The Child Abuse Team of Ramsey County is a community-based interdisciplinary team. Membership includes representation from all community agencies which are significantly involved in the intervention and/or treatment process for abusing families. This includes:

Children's Hospital
Face to Face Health and Counseling Center
Ramsey County Attorney's Office
Ramsey County Mental Health Department
Ramsey County Nursing Service
Ramsey County Welfare Department
St. Paul Police Department
St. Paul-Ramsey Medical Center
Suburban Police Departments
Ramsey County School Districts
Wilder Child Guidance Clinic

Member agencies have agreed to:

1. Routinely utilize the team process on all cases of confirmed abuse.

2. Share across agency lines, via the team, information pertaining to the abuse and such further information about the families as will aid in protection and rehabilitation efforts.

3. Discuss respective service plans and coordinate activity with one another on a case-by-case basis.

4. Member agencies have *not* abrogated their respective roles and responsibilities: e.g., police - investigation of abusive incident; welfare - child protection, family assessment and ongoing case management; mental health - psychological evaluations and clinical therapy services. The team as a body does not dictate the action of any professionals. It is only able to discuss and recommend.

## TEAM PROCESS

There are three phases of the staffing process:

1. Emergency staffing
2. Treatment planning meeting
3. Implementation

### Emergency Staffings.

Emergency staffings are called when a child appears to be in imminent danger and there may be need for an emergency custody petition. Team members are on call for emergency meetings. Much of what occurs in an abuse emergency is the result of significant prior planning. As a result of this planning, there are defined, agreed upon interagency procedures for reporting professionals, welfare social workers, medical staff and police officers defining their roles and responsibilities in reporting suspected abuse, in assessing/investigating/evaluating the situation and in securing legal custody of the child if needed. Emergency team meetings are held to allow the protection worker, reporting source, medical staff and investigating police to pool their initial information and thus make initial decisions regarding protection on the basis of more information than any one member would have alone (also, to share the burden of that decision). The effort, whatever possible, is to find reasonable alternatives to an emergency custody petition that would guarantee protection for the child.

### Treatment Planning Staffing.

This staffing is held as soon as all the relevant information is available, i.e. police investigation, medical report, social work assessment of family and background, psychological/psychiatric evaluation. The purpose of this meeting is to focus on the long range view of the case, to define goals, relevant services and responsible agencies.

### Implementation Staffings.

As long as three or more agencies are providing services, the active professionals staff the case at least once quarterly to monitor case progress. Any professional involved in the case can request a staffing more frequently than that if he/she is encountering problems or having questions.

How do you get the process to work?

1. Administrative commitments from all involved agencies must be secured, agreeing to participate in the team process.
2. Designation of a position of team coordinator is equally important. The primary responsibility of the coordinator is to the team, and activity is focused on maintaining an effective coordination and communication process. This position functions best if placed in a "neutral" agency, i.e. one that does not have any legal responsibility for abuse cases. This helps keep clear the distinction between community coordination and case management.
3. Role definitions of team members must be clear, mutually agreed upon, and reviewed periodically to keep lines of authority and responsibility clear.

## APPENDIX B

## PROTOCOL FOR MEDICAL EXAMINATION OF SEXUALLY ABUSED CHILDREN

Virtually all children reported as sexually abused need a general medical examination. The purposes of medical examinations for sexually abused children are twofold: medical diagnosis and treatment of any physical injuries, of possible venereal disease, or of pregnancy; and, evidence gathering to corroborate the history given of the abuse. If the sexual abuse has been recent, an immediate examination is mandatory because of the possible presence of sperm and acid phosphatase, which often cannot be detected beyond 48 hours after the sexual act.

1. The patient or victim may come to the hospital for examination by herself/himself or be brought to the hospital by parent, police, child protection staff or friend. The medical examination can be performed on a child without parental consent at the discretion of the examining physician. The examining physician is protected under both Minnesota Statute 144.323 and 144.344 . . .

2. The child protection worker or law enforcement officer is asked to call the medical facility* as soon as a report of sexual abuse of a child is known, and is asked to speak to the physician regarding the history of the assault to determine when a medical examination should be done. If the most recent assault has occurred within the past 48 hours, arrangements should be made for an immediate medical examination for medical and evidentiary purposes. If the assault did not occur within the past 48 hours, the protection worker should consult with the physician to determine if an immediate examination is still warranted and, if not, to schedule the examination as soon as is reasonably possible.

3. The exact details of the history are helpful for the physician to consider during the examination and are an integral part of the total assessment. A written or verbal report from the police or child protection worker, providing such details as are available, should be delivered to the physician prior to his/her examination of the child. This report will prevent the child from having to tell the details of the history all over again to the examining physician. The physician, however, should ask enough history to feel comfortable in writing his/her report of the sexual abuse.

4. During the medical examination, the patient should be provided with ample emotional support. If there are no support persons present (family member, welfare protection worker, etc.) the medical facility should assign an appropriate staff person to be present and available to the patient. The medical facility is also responsible for verifying that the alleged sexual abuse by parent, guardian, or caretaker has been reported to welfare or the police or, if not, for initiating such a report. (The Mandatory Reporting Law is printed in its entirety in this manual. See Chapter One, Appendix A.)

*There is, of course, no restriction in choice of physician or medical facility. These procedures were developed with the medical staff of Emergency Services at Children's Hospital and St. Paul-Ramsey Medical Center. . .

5. The examination will be performed by a licensed physician who is experienced in examining children and is fully aware of the details of this protocol and the philosophy regarding sexual abuse. Preferably a limited number of experienced physicians will do this by appointment, whenever possible. The examination will be performed under the same guidelines as it would be done for rape victims, with the same precautions taken to preserve evidence for possible charging of the assault. . . .

6. The general atmosphere of the medical facility should be one of understandig and sympathy for the patient. The need to protect the patient from further assault must be the major concern of all who are involved. A written report must be completed by the examining physician and should include a statement of the findings of the examination and any confirmation obtained of the history of abuse.

APPENDIX C

# *Interviewing the Child Sex Victim**

**In interviewing a child sex victim, the police officer must establish the elements of the offense without causing the victim, who is likely to be confused and frightened, unnecessary anguish. Frequently, the emotional reactions of the parents and problems of communication between the officer and the child complicate the interview process. Throughout the interview, the police officer should exercise tact, compassion, and patience, keeping the welfare of the child first in his mind.**

Although one researcher has estimated that more than one million American children are sexually assaulted each year,[1] very few of these cases are brought to the attention of the police. The primary reason that child sexual abuse is a vastly underreported crime is that frequently the victim and the offender are related. Family members may not report such sex crimes because of personal shame, misguided loyalty, fear of public exposure and embarrassment, or outright complicity. The child may not relate the abuse to anyone because she is naively obedient, fears retaliation, does not want to hurt the family, or is unaware that an offense has been committed.

Because of these factors, a great majority of incidents involving family members do not surface rapidly, if at all. Often, such cases of abuse represent long periods of chronic adult-child sexual activity, in which the child maintains genuine affection for the offender although she may have negative feelings about the sex acts. Some children may be active participants in sexual relations because of their need and desire for adult or parental affection and attention.

Child assaults committed by strangers are much more likely to be reported to the police. But even here, underreporting is prevalent because children often have difficulty in understanding and relating unusual experiences. Since the assault complaint is typically registered by the parents, they must first understand and believe the child's account.

The one background factor that seems common in cases of child sexual abuse is that the victims often come from a disorganized family. A recent study[2] concluded that the great majority of sexual offenses occurred as a result of parental negligence. Three conditions of negligence were found to be typically involved: the daughter was left unprotected even though the parent knew she was in danger, the parent refused to listen to the child's story that she had been attacked or was in danger, or the parent was aware of the attack but took no positive action because a family member was the offender.

The study also showed that 33 percent of the child victims were from one-parent homes, and another 14 percent were from families where the parents were not legally married. Many of the children studied were victimized by members of their own family. For example, the report indicated that the girls between the ages of 6 and 15 were one and a half times more likely to be assaulted by a household member or blood relative than by a stranger.[3]

Underreporting is not the only obstacle that the police face in dealing with child sex victims. Even when such assaults are reported, there frequently is a substantial time lag between the occurrence of the incident and the notification of the police. Many times the parent does not learn about the attack immediately because the child "forgets" to mention it. The victim may not think to mention the incident until something triggers her memory of it. For example, while being bathed, a young girl may remember the assault and tell her mother that someone had kissed or touched her. Police officers need to realize that a late report is often caused by the child's limitations in remembering and communicating experience. On the other hand, the longer the time period between the attack and the official reporting of it, the more difficult it is to investigate the case.

After the attack has been reported, police involvement in the case usually begins with the interview of the child. Interviewing a child is different from interviewing an adult, where both the officer and the victim are at least assured of "speaking the same language." The officer has to use special skills in conducting a successful interview of a child sex victim. He needs to have an insight into how children perceive and relate events, and he must have some understanding of the psychological reactions of the child and the parents to the incident.

### Psychological Reactions

In cases of child sexual abuse, the police officer must consider carefully the emotional condition of the victim and her parents. An understanding of the various psychological reactions of the parents and child helps the office to avoid causing unnecessary anguish and creates an atmosphere of trust and support, in which the investigative process, especially the initial interview, can proceed smoothly.

**PARENTS:** Child molestation is an offense where the emotions of the parents or guardians may be more complex and explosive than the psychological reactions of the victim. Because the child's emotional condition and attitude toward the police will likely reflect her parents' state, it is often necessary for the officer to consider the parents' reaction, if they are not involved in the offense, before concentrating on the victim.

Although parental reactions vary, there are typical emotional conditions for which the police officer can be prepared. Perhaps most common is the grief reaction, a combination of fear, anger, and sorrow. Here, the police officer should allow the parents to express or "ventilate" their feelings. After they have relieved some of their emotional tension, the officer should try to further calm the parents, assuring them that the child is safe and everything during the investigation will be carried out in her best interest.

*Reprinted from Training Key #224 with the permission of the International Association of Chiefs of Police.

[1]Leroy G. Schultz. "Child Sex Victim: Social, Psychological and Legal Perspectives." *Child Welfare*, 1973, p. 147.

[2]Vincent DeFrances. *Protecting the Child Victim of Sex Crimes Committed by Adults*. American Humane Association, Denver, Colorado, 1969.

[3]*Ibid.* p. viii.

Parents of child sex victims frequently experience feelings of extreme guilt. They blame themselves for "allowing" the assault to occur. Such expressions of guilt generally start with the word if — "if only I had moved to another neighborhood" or "if only I hadn't gone to the store." Where appropriate, the police officer should assure them that they have been responsible parents and that the only guilty party is the offender.

Sometimes the parents' guilt will be directed toward the child in the form of verbal abuse. The parents will blame the child for her misfortune. When this occurs, the police officer should separate the child from the parents and explain to them that their behavior will adversely affect the child's present condition and future recovery. Explanations such as these should be delivered tactfully, for the success of the interview and the well-being of the victim depend greatly on the rapport established between the police and the parents.

If one parent is the offender and the other parent's guilt is justified — for example, when a mother has known for some time about relations between her husband and daughter — the officer should acknowledge the mother's feelings but not criticize her behavior. Antagonizing the mother will only make interviewing the child a more difficult task.

CHILD: Many factors influence the emotional reactions that child sex victims experience. The age, level of physical and emotional development, understanding of sex, family stability, brutality of the attack, and the relationship between the victim and the offender must be taken into account, especially when trying to speculate about the long-range impact of the incident on the child's emotional health. The immediate goal of the police officer, however, is to calm and protect the victim from further emotional damage while carrying out the investigative interview.

The child may exhibit fear, embarrassment, guilt, or confusion. Emotional shock, manifested by crying, shaking, and restlessness, is a reaction that police officers frequently encounter. In such cases, the officer and the parents must comfort the child until her sense of well-being is restored.

Withdrawal is another common psychological reaction in these situations. The child may refuse to converse with the officer or to become involved in the interview in any other way. Embarrassment, a desire to forget the incident, or unfamiliarity with the interview surroundings and procedures may be at the root of this feeling. Patience and understanding on the part of the police officer will help the victim overcome these inhibiting fears.

When the offender is a family member or brutality is involved, the child may "repress" the incident and not be emotionally capable of discussing it. Repression is sometimes called "active forgetting" in that individuals will not allow themselves to remember unpleasant experiences. All that the police officer can do in this situation is to make the victim feel comfortable and secure and explain the importance of the interview in the hope that she will respond positively.

Particularly among older children, there may be guilt feelings associated with the assault. The child may feel that she somehow provoked the attack by her behavior. The guilt association may be quite childish: for example, the victim accepted candy or a ride from a stranger and then was "punished" for doing what her parents constantly warned her not to do. Or the victim's guilt may take a more adult form, such as wondering whether her own sexuality somehow enticed the offender. In any case, the police officer must make it completely clear that the child was not at fault and should not in any way hold herself responsible for what occurred.

Younger children may be genuinely confused about the attack. The victim may know that something unusual occurred but not that something "bad" or significant took place. Here, the police officer should try to get the facts of the case without alerting the child to the seriousness of the attack. So long as the child looks upon the incident as only an "unusual" event, her chances of a complete emotional recovery are very good.

The concept of "protection through innocence" should be recognized by police officers. The premise of the concept is that the young child, because of her lack of awareness of the social taboos violated, will not suffer a long-lasting emotional disturbance from a sexual assault. Although all child sex victims probably experience some degree of short-term psychological stress, most will not suffer from long-range emotional problems unless they are adversely affected by the reactions of adults.

**The Interview**

The interview of any victim of a sex crime is demanding work. The interviewing officer must obtain information from a victim who typically finds it difficult and unpleasant to recount the personal aspects of the crime. If the police officer does not exercise tact and compassion, not only does the interview fail as an investigative process, but also the victim may unnecessarily suffer emotionally. Although interviewing an adult victim is difficult, the interview of a child is more so. Problems of communication and identification between an adult officer and a child victim must be overcome. The task becomes even more complicated when the offender is related to the victim. When the officer is confronted with both problems in interviewing a child victim of a sexual assault, the difficulty is compounded and special attention is required.

TIMING: The interview should take place as soon as possible after the incident is reported. The longer the time interval between the assault and the interview, the less able the child is to recall the attack and relate the details. The welfare of the child cannot, however, be sacrificed for investigative expediency. Since extensive questioning by more than one officer can cause the victim emotional trauma, it should be avoided when possible. However, detailed questioning by the officer responsible for the initial interview is, however, necessary to establish whether a crime was committed and to obtain the identity or description of the suspect. The following procedures should, therefore, be applied during both the preliminary and in-depth interviews.

SETTING: The in-depth interview of the victim should not take place until after the child has been medically examined and treated and other physical needs have been met. Personal needs often include washing and changing clothing.

The interview should take place in a comfortable setting where the child feels secure. The setting should provide privacy. Places that are not free from interruptions, distraction, and noise are inappropriate for effective interviewing. A preferred location is the child's home, so long as it is not the site of the attack. It is familiar to the child and will provide the needed privacy. If an office is used, the officer should ensure that it meets basic requirements of the interview setting, and he should permit the child to become familiar with it before starting the interview.

It is often desirable that a female police officer conduct the interview of a child sex victim. This will depend on the age, sex, and feelings of the victim. In many cases, though, a policewoman will not be available. At these times, the officer should consider using the presence of a female nurse or social worker to facilitate the interview process. Although the nurse or social worker will not participate in the actual interview, her mere presence may be comforting to the child.

PARENTS AS OBSERVERS: When one of the victim's parents is the suspected offender, it is usually most productive to interview the child without either parent being present. In these cases the child probably will be hesitant to discuss the attack if family members participate in or observe the interview.

Where a parent is not the perpetrator, the police officer should explain to the child's parents the purpose and structure of the questioning before the interview begins. The officer's attitude must convey a sympathetic understanding of the

parents' position, and their cooperation should be openly solicited. Experience has shown that a child's initial reaction to an interview is influenced greatly by the attitude of the parents. When the parents feel secure and display cooperativeness, the child will likely behave in the same way.

Whether the parents should be present during the interview depends entirely on the specific circumstances of the case. Some children will be frightened and uncommunicative if their parents are not present; others will be reluctant to discuss the matter in front of their family. Generally, if the child requests that her parents be present, her wish should be complied with. The parents can be seated behind the child so that they do not interfere with the questioning. When the child does not want her parents present, they may be seated outside the room where they can observe but not overhear the victim. An interview room equipped with a two-way mirror can fulfill this requirement. In all cases, the interviewing officer will have to judge what arrangement is best, keeping the welfare of the victim uppermost in his mind.

**RAPPORT:** One of the most important elements of the interview is the officer's ability to establish a rapport with the victim. An effective means of accomplishing this is for the officer to question the child about herself. Most children like to talk about themselves. Questions concerning the child's hobbies, school friends, and activities will show the child that the officer is interested in her as a person. In this way, an informal and friendly relationship between the two can be developed, and, in addition, the child will become accustomed to answering personal questions. Once rapport is established, the officer should be able to smoothly lead into discussion of the assault.

**OBTAINING THE STATEMENT:** As when interviewing an adult victim, the police officer should let the child describe the incident in her own words and should not ask detailed questions until the victim's statement is complete. The officer should listen attentively and encourage conversation with supporting gestures and comments. By nodding his head, the officer lets the child know that he is listening and understands what she is saying. Another way to encourage conversation is to repeat key words and the last word or statement that the child has made. Expressions such as "you feel that," "you are saying that," and "what you are trying to tell me" also help to draw out information.

The language the officer uses must suit the age and level of development of the child being interviewed. It is important that the officer stay on the child's level and phrase his questions in a language that the victim understands. Young children usually do not know the correct words for various parts of the body, especially sexual organs. When referring to some parts of the body, for example, children often use nicknames. The officer should ask the parents for the meanings of these nicknames and his report should reflect the terms used by the child and include the meaning attached to them by the victim. With older children, the officer's choice and manner of language will often be that of an adult. When talking to adults about sexual relationships, adolescents typically use formal terms. Adolescent girls, for instance, prefer formal language to child or street talk when discussing the topic of sex because it is less likely to embarrass them.

Because the purpose of the interview is to determine the facts of the crime, the police officer must question the victim about the details of the assault. Some details are not common knowledge among children, and they frequently cannot describe sexual activities in a vivid way. In addition, children sometimes find it difficult to distinguish between what actually happened and what they imagined to have occurred. This is especially true when the experience is a very emotional one. In overcoming these interview obstacles, the police officer relies on past experience, exercises patience, and seeks the advice of the victim's parents.

**VICTIM EVALUATION:** During the interview, the police officer has to establish the potential of the child as a credible witness as well as determine the truthfulness of the child's statement. This evaluation is aimed at two characteristics of the victim: her ability to accurately relate the event and to distinguish between fantasy and truth.

The child's capacity to recall and relate information can be tested by asking her personal questions. Information should be solicited from her about family life, friends, school, and other interests. General questions about the community in which she lives, such as church and recreational activities, also help to determine her level of intellectual development. The child's replies to these questions not only help in evaluating the child's ability, but also the discussion serves as a means of fostering a rapport.

The victim's ability to tell time is often a crucial factor in establishing when the attack occurred. Questions about the hours and days of the week the child attends school will aid in this evaluation. There are other routine functions in the child's life which the officer can use to determine the time of the offense including television schedule, eating habits, and daylight and nighttime activities.

Whether the child can differentiate between the truth and a lie needs to be assessed by the interviewing officer. The officer should ask the victim if she knows the difference between the two and what happens when she tells a lie. The victim's answer may be expressed in child terms, but the important thing is her attitude. She should consider telling the truth as being positive and telling a lie as being negative. If there is a need, the police officer can verify the child's reputation for honesty by talking with the parents, teachers, friends and parents of friends.

The child's ability to distinguish between fantasy and reality must also be established. If the victim's account seems improbable, overly imaginative, or exaggerated, the police officer may have to probe into her background to determine whether she often confuses real events with those imagined.

**ENDING THE INTERVIEW:** The police officer should never end an interview abruptly. When he has obtained all of the facts about the incident, the officer should ask the child whether there is anything else she wishes to say. The child should be told that, if she remembers anything else about the assault, she should tell her parents. If the child is old enough to understand, the officer can explain the investigative steps to be followed.

The police officer should explain to the parents that the child may have to repeat her story to others, including the prosecutor, as well as testify in court. The parents should also be told that, if the case goes to trial, the police will help prepare the child for the courtroom hearing so that the experience will not be emotionally traumatic.

The parents should be cautioned against questioning the child about the incident. The less the child has to think about the assault, the faster her emotional recovery will probably take place. If the child wants to discuss the matter, however, the parents should be advised to talk about it frankly and without embarrassment.

Sometimes child sex victims and their families experience long-range emotional difficulties. Depending on the circumstances, the police officer may suggest that they seek the help of an appropriate social service agency, family physician, psychologist, or clergyman.

**Preparing the Child for Court**

When the investigation of a child sex offense ends successfully and a trial is scheduled, the police should begin to prepare the child for court. The officer should explain to the child courtroom procedures and the roles of the judge, jury, prosecutor, and defense attorney. This explanation must be in such a manner that the child understands it. Where possible, the officer and the prosecutor should familiarize the child with the courtroom. She should be taken to the courtroom and allowed to sit in the judge's chair, at the attorney's table, and in

the witness chair. The victim should also be familiar with where she and her parents will be sitting. By acquainting the victim with the legal proceedings, the officer accomplishes two goals. He makes the child a better witness by reinforcing her self-confidence and makes the courtroom experience less mysterious and frightening.

**Summary**

For a variety of reasons, sexual crimes against children often go unreported. When a case of child molestation is brought to the attention of the police, the interviewing officer is responsible for obtaining the facts so that a proper investigation of the matter can be conducted. But interviewing a child sex victim is a very difficult and delicate assignment. The officer must consider the psychological condition of the victim and her family, gain the cooperation of the parents, and question the victim without causing her additional emotional problems. He must evaluate the victim in terms of her potential as a witness, and, if the case goes to court, the officer must prepare her for the trial.

# CHAPTER SIX
# USING THE JUDICIAL SYSTEM

## LEGAL DEFINITIONS OF SEXUAL ABUSE

Whether dealing with civil neglect/dependency procedures or with the criminal justice system, the same legal statutory definitions are relevant. Minnesota Statute 626.556, Subdivision 2, which relates to the mandatory reporting of abuse cases, specifically refers to the criminal statutes for the crimes of criminal sexual conduct and prostitution. The neglect/dependency statute does not itself define "sexual abuse"; presumably, any conduct which falls within the mandatory reporting statute (Minnesota Statute 626.556, Subd. 2) and the appropriate criminal statutes would certainly provide grounds for initiating a neglect/dependency petition to protect the child within Minnesota Statute 260.015.

Criminal Sexual Conduct. — (Minn. Stat. 609.342, 609.343, 609.344, 609.345).

Minnesota replaced its rape and indecent liberties statutes with a series of four statutes setting out four degrees of criminal sexual conduct. On the following pages are two charts which provide in very basic form the statutory definitions or elements of the various types of sexual abuse of children. These statutes describe a number of situations which would constitute a violation of the law. Basically, the statutes are divided into two categories: one category relates to acts involving sexual penetration, and the other relates to acts involving sexual contact. Note: The present statute does not provide protection for minor children between the ages of 16 and 18 who are being sexually abused in a family setting unless there has been force or injury.

Category 1 - Sexual Penetration (609.342, 609.344) — Sexual intercourse, cunnilingus, felatio, anal intercourse, or any intrusion, however slight, into the genital or anal openings of the victim's body or with any object used by the actor for any of these purposes. Emission of semen is not necessary.

| SEXUAL PENETRATION | Victim's Age | Offender's Age | Offender Position of Authority | Consent as a Defense | Mistake of Age as a Defense | Punishment |
|---|---|---|---|---|---|---|
| 1st Degree (a) | under 13 | 3 yrs.+ older | -- | No | No | 0 to 20 yrs. |
| 3rd Degree (a) | under 13 | max 3 yrs. older | -- | No | No | 0 to 10 yrs. |
| 1st Degree (b) | 13-16 | 4 yrs.+ older | Yes | No | No | 0 to 20 yrs. |
| 3rd Degree * (b) | 13-16 | 2 yrs.+ older | -- | No | Yes | 0 to 10 yrs. |

* If the offender is two to four years older than the victim, the punishment is 0 - 5 years.

If the offender is more than four years older than the victim, the punishment is 0 - 10 years.

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Category 2 - Sexual Contact (609.343, 609.345) — Intentional touching of the victim's intimate parts by the actor. The coerced touching by the victim of the actor's intimate parts or of the victim's own intimate parts or the intimate parts of another person. The coerced touching of the victim's intimate parts by another person. The touching can occur over the victim's clothing.

*Intimate Parts* refers to primary genital area, groin, inner thigh, buttocks or breast of a human being.

One is in a *position of authority*: if he/she is a parent or is acting in the place of a parent and is charged with any of the parental rights, duties or responsibilities; or if the person is charged with any duty or responsibility for health, welfare, or supervision of a child, either independently or through another. The charge of responsibility must be simultaneous with the act, but it is not relevant how long or how short that period of responsibility was.

| SEXUAL CONTACT | Victim's Age | Offender's Age | Offender Position of Authority | Consent as a Defense | Mistake of Age as a Defense | Punishment |
|---|---|---|---|---|---|---|
| 2nd Degree (a) | under 13 | 3 yrs.+ older | -- | No | No | 0 to 15 yrs. |
| 4th Degree (a) | under 13 | max 3 yrs. older | -- | No | No | 0 to 5 yrs. |
| 2nd Degree (b) | 13-16 | 4 yrs.+ older BOTH | Yes | No | No | 0 to 15 yrs. |
| 4th Degree (b) | 13-16 | 4 yrs.+ older OR | Yes | Yes | Yes | 0 to 5 yrs. |

The remaining provisions of criminal sexual conduct in the first and second degrees relate to acts of the following nature which occurred in addition to the sexual abuse:

- The victim was in fear of imminent great bodily harm
- A weapon was used
- The victim was injured and:

  a) the offender used force; or

  b) the victim was incapacitated at the time

These provisions are seldom applicable to family sexual abuse cases since the contact rarely encompasses the violent behavior which these sections state must be present.

The remaining provisions of criminal sexual conduct in the third and fourth degrees relate to acts of the following nature which occurred in addition to the sexual abuse:

- The offender used physical force
- The victim was incapacitated at the time

Incest (Minnesota Statute 609.365).

This statute has more limited use than the criminal sexual conduct statutes since there must be proof of sexual intercourse rather than sexual penetration and the victim and offender must be blood relatives. In addition, the maximum penalty is only ten years. The specific statute reads in relevant part:

> Whoever has sexual intercourse with another nearer of kin to him than first cousin, computed by the civil law, whether of the half or the whole blood, with the knowledge of the relationship, is guilty of incest.

## JUDICIAL ALTERNATIVES

The judicial system comes in contact with abuse cases in three settings:

1. Marriage Dissolutions or Custody Evaluations in Family Court
2. Civil Neglect/Dependency Procedures in Juvenile Court
3. Criminal Prosecution in District Court

The neglect/dependency procedure is initiated to allow the court to take custody or have power over a child who is not being properly cared for by his/her parents. A criminal prosecution is initiated against a person who has violated a law (these procedures are illustrated in the charts at the end of this chapter). The result if the person pleads guilty or is found guilty is to give the court jurisdiction over the person who violated the law. A custody evaluation, conducted as part of a marriage dissolution proceeding, may result in the discovery of sexual abuse. The Family Court has the power to award custody of children to either parent, to others, or to the State.

## FAMILY COURT.

Involvement by the Family Court in sexual abuse cases may come as a result of the commencement of a marriage dissolution (a divorce). It is not unusual for the crisis of dissolution to prompt the report of sexual abuse. Oftentimes, it is not until the offending parent leaves the family that a child may feel safe enough to report the sexual abuse. Or, where the offending parent may be given exclusive custody or visitation of a child, the child may come forward with information about the sexual abuse.

Once a dissolution proceeding is commenced, a custody evaluation may be requested either by one or both of the parties or by the Family Court judge. During this evaluation process, evidence of sexual abuse may surface.

When sexual abuse is reported in this situation, the mandatory reporting law requires notification of the welfare department or police department (see Chapter Four, The Reporting Statute). The investigation of the abuse should be conducted in the manner described in this manual (see Chapter Five, Information Gathering and Assessment). The fact that the report may have arisen in the Family Court setting is no reason the case should be handled in a different manner. Court services people should cooperate and assist the welfare and police departments in their investigations.

The power or jurisdiction of the court is concerned with the ultimate placement of the child. The Family Court judge determines who shall have custody of the child. Where abuse is present, determination of visitation rights is also relevant. Both because of the custody issue and because of the visitation rights, it is important that a thorough investigation of sexual abuse be conducted.

## CIVIL NEGLECT/DEPENDENCY PROCESS: THE USE OF JUVENILE COURT.

A child who has been sexually abused in a family setting may be entitled to the protection of the Juvenile Court process. The Juvenile Courts in Minnesota have the power to take legal and/or physical custody of a child who is determined to be "neglected" or "dependent" (Minnesota Statute 260.111 Subd. 1).

A child is "neglected" if, among other things, he/she is:

1. Abandoned by his/her parent, guardian, or other custodian; or

2. Without proper parental care because of the faults or habits of his/her parent, guardian, or other custodian; or

3. Without necessary subsistence, education, or other care necessary for physical or mental health or morale because the parent, guardian, or other custodian neglects or refuses to provide it; or

4. Without special care made necessary by his/her physical or mental condition because the parent refuses to provide it; or

5. His/her occupation, behavior, condition, environment or associations are such as to be injurious or dangerous to himself/herself or others; or

6. The parent, guardian, or custodian has made arrangements for placement of the child in a manner detrimental to the welfare of the child or in violation of the law; or

7. The child comes within the definition of delinquent child, but his/her conduct results in whole or in part from parental neglect.

A child is dependent if, among other things, he/she is:

1. Without a parent, guardian, or other custodian; or

2. In need of special care and treatment required by his/her physical or mental condition and the parent, guardian, or other custodian is unable to provide it; or

3. The parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody; or

4. The child is without proper parental care because of the emotional, mental, physical disability, or state of immaturity of the parent, guardian, or other custodian.

Therefore, when a parent is unable or unwilling to protect a child from sexual abuse by the other parent, stepparent or other relative or friend, the court may intervene to protect the child.

Court Structure.

Juvenile Court is not a separate court building or even a special judge in many places. This phrase really refers to a special set of rules that judges must employ when it is believed a minor is being sexually abused or is having other family problems. The Juvenile Court is set up so that problems of minors can be treated informally and privately. There is also a need for a court which can help parents and children settle family problems in a peaceful way. The law establishing Juvenile Courts says that its purpose is to:

> . . . secure for each minor under the jurisdiction of the court the care and guidance, preferably in his/her own home; it will serve the spiritual, emotional, mental, and physical welfare of the child in the best interest of the state; to preserve and strengthen the minor's family ties whenever possible, removing him/her from the custody of his/her parents only when his/her welfare or safety and protection of the public cannot be adequately safeguarded without removal; and when the minor is removed from his/her own family, to secure for him/her custody, care and discipline as nearly as possible equivalent to that which should have been given by his/her parents. (Minnesota Statute 260.011)

Generally, in smaller counties the County Court has the authority to handle neglect/dependency cases. In larger counties, the District Court Juvenile Division handles neglect/dependency cases.

Under Minnesota Statutes 260.031 the judge of the Juvenile Court may appoint one or more suitable persons to act as referees. Referees are to be qualified for their

duties by previous training and experience and hold office at the option of the judge.

In most counties, procedures in juvenile cases are governed by the Minnesota Juvenile Court Rules and the Minnesota Juvenile Court Act. Neglect/dependency proceedings can be held either in the county where the child is found or in the county of physical residence.

Taking Physical Custody of a Child.

Minnesota Statute 260.165 provides that a child may be taken into immediate custody:

1. When an order is issued by the court in accordance with Minnesota Statute 260.135 (summons) or Minnesota Statute 260.145 (warrant); or

2. In accordance with the laws relating to arrest; or

3. By a peace officer:

   a) when a child has run away from his/her parent, guardian, or custodian, or when the peace officer reasonably believes such child has run away from his/her parent, guardian, or custodian; or

   b) when a child is found in surroundings or conditions which endanger the child's health or welfare or which the peace officer reasonably believes will endanger the child's health or welfare; or

4. By a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of his/her probation, parole, or other field supervision.

Minnesota Statute 260.171 provides that the parent, guardian or custodian of a child taken into custody pursuant to Minnesota Statute 260.165 is to be notified as soon as possible. A child taken into lawful custody is to be released unless there is reason to believe that the child would physically endanger himself/herself or others, not return for a court hearing, not remain in the care or control of the person to whose lawful custody he/she is released, or that the child's health or welfare would immediately be endangered.

Once taken into custody, the child is not to be held at the detention facility longer than 36 hours, exclusive of Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention. The person who has determined that a child should be detained is to deliver to the court and the supervisor of the detention facility a signed report which sets forth the following:

1. The time the child was taken into custody; and

2. The time the child was delivered to the detention facility; and

3. The reasons why the child was taken into custody; and

4. The reasons why the child has been placed in detention; and

5. A statement that the child and his/her parent have received the notification required by Subdivision 4 of Minnesota Statute 260.171 or, in the alternative, reasons why the parents have not been notified.

Minnesota Statute 260.173 provides for placement and temporary care. If a child is taken into custody pursuant to Minnesota Statute 260.165 or is found in surroundings or conditions reasonably believed to endanger his/her health or welfare and the child is not alleged to be delinquent, he/she may be detained *only* in a shelter care facility.

The Detention Hearing.

Minnesota Statute 260.172 provides that a child is entitled to a detention hearing within 36 hours of being taken into custody, exclusive of Saturdays, Sundays, and holidays. A child is to be released to the custody of his/her parent, guardian, custodian, or other suitable person unless there is reason to believe that the child would be dangerous to himself/herself or others, not return for a court hearing, not return in the care or control of the person to whose lawful custody he/she is released, or that the child's health or welfare would immediately be endangered. If the court determines that a child should continue in detention, it may order detention continued for eight days, exclusive of Saturdays, Sundays, and holidays. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons. Copies of the court's order shall be served upon the parties, including the supervisor of the detention facility, who shall release or hold the child as the court orders. If detention is continued afterward, hearings are to be held every eight days to determine whether detention should be continued.

Under Minnesota Juvenile Court Rules (JCR) 7-2, a child who has been placed in detention or his/her parent has the right to apply to the court at any time during the first 48 hours of detention, excluding Saturdays, Sundays, and holidays, for the child's immediate release. When such an application is made, the court holds a *summary detention hearing* on notice to the child, the parent, the supervisor of the detention facility, and the person who took the child into custody. At the conclusion of the summary detention hearing the court enters an order directing the supervisor of the detention facility to:

1. Release the child immediately to the custody of the parent or other suitable person; or

2. Release the child 48 hours after the time he/she was placed in detention, excluding Saturdays, Sundays, or holidays; or

3. Continue holding the child in detention pending the formal detention hearing.

Copies of this order are to be delivered to the child, the parent, and the supervisor of the detention facility. If such a request for summary detention hearing during the first 24 hours of the child's detention is not made by the child or the parents, the person who took the child into custody or the supervisor of the detention facility may apply to the court for the continued detention, exclusive of Saturdays, Sundays, or holidays. If the supervisor of the detention facility does not receive a continued detention order, he/she shall release the child at the end of such period to the custody of the child's parent or other suitable person.

Regardless of the outcome of the summary detention hearing, a *formal detention hearing* must be held within 48 hours after filing the petition or by the court day next succeeding the date of filing, whichever is later. When a child is placed in detention after the filing of a petition and not released within the first 48 hours, a hearing must be held no later than 72 hours after the child was placed in detention, exclusive of Saturdays, Sundays, and holidays. Conduct of the detention hearing is governed by Minnesota Statute 260.155, which provides that the hearings on any matter shall be without jury and be conducted in an informal manner. The court is to exclude the general public from these hearings and admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The minor, parent, guardian, or custodian have the right to counsel. The court is to appoint counsel if the parents or guardian are unable to afford it. Except in delinquency proceedings, the court may waive the presence of the minor in court at any stage of the proceedings when it is in the best interest of the minor to do so. The minor and his/her parent, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to cross-examine witnesses at the hearing.

Petition and Summons.

Any reputable person may sign the petition. The petitioner may be a neighbor, friend, employee of the welfare department, police officer or any other interested person. The petition may be based on that person's own information and belief. The county attorney must draft the petition and it should set out:

1. The facts which bring the child within the jurisdiction of the court; and

2. The name, date of birth, residence, and post office address of the child; and

3. The names, residence, and post office addresses of the parents; and

4. The name, residence, and post office address of the guardian, if there be one, or the person having custody or control of the child . . . ; and

5. The spouse of the child, if there be one. (Minnesota Statute 260.131)

If any facts required by the petition are not known or cannot be ascertained by the petitioner, the petitioner is to state this. Minnesota JCR 3-1 affirms the statute by stating that "every petition filed with the Juvenile Court shall be:

a. drafted by the county attorney upon a showing to him of reasonable grounds to support the petition, and

b. filed by the person who has knowledge of the facts alleged and who shall have verified the same."

Minnesota Statute 260.135 requires that, after a petition has been filed, the court is to set a time for hearing and is to issue a summons requiring a person who has custody or control of the minor to appear with the minor before the court. The summons is to recite briefly the substance of the petition or have a copy of the petition attached to it. If a petition alleges neglect or dependency, the clerk of court shall notify the county welfare board that the case is pending. The court may issue a subpoena requiring the appearance of any other person whose presence,

in the opinion of the court, is necessary. If it appears that the minor is in such conditions or surroundings that his/her welfare requires that custody be immediately assumed by the court, the court may order (endorsement upon the summons) and have the officer serving the summons take the minor into custody at once. This fact may be presented to the court from the petition or by a separate affidavit of a person having such knowledge. If a child is placed in foster care by court order or voluntarily, a case plan must be filed within 30 days of the placement (Minnesota Statute 257.071).

Adjudicatory Hearing or Trial.

The next type of hearing is the adjudicatory hearing, which is the Juvenile Court's equivalent of a trial. The purpose of this hearing is to determine whether the child is neglected or dependent — in other words, whether the child has been the victim of sexual abuse. If, after the adjudicatory hearing, there is a finding of neglect or dependency, a dispositional hearing is held to decide the remedies that should be applied.

Dispositional Hearing.

Minnesota JCR 6-1 provides that a dispositional hearing separate and distinct from the adjudicatory hearing is to be held after the adjudicatory hearing. Under Rule 6-3 all dispositional hearings are to be conducted in accordance with Minnesota Statute 260.155. In addition, the court is to comply with the provisions of Rule 5-1. Although the rules do not specify the degree of proof required for findings of fact at dispositional hearings, a preponderance of the evidence standard appears to be in effect. After consideration of reports the court is to enter a dispositional order in accordance with the provision of Minnesota Statutes 260.185, 260.191, 260.193, or 260.241.

If a court finds a child neglected or dependent at the adjudicative hearing, it shall enter an order making any of the following dispositions of the case:

1. Place the child under the protective supervision of the county welfare board or child placing agency in the child's own home under conditions prescribed by the court; or

2. Transfer legal custody to one of the following:

   a. a child placing agency; or

   b. the county welfare board;

3. If the child is in need of special treatment and care, the court may order the child's parent, guardian, or custodian to provide it (see Minnesota Statute 260.191).

Under Subdivision 2 of this section, all orders under this section are to be for a specified length of time set by the court not to exceed one year. Before the order has expired and upon its own motion or that of any interested party, the court has continuing jurisdiction to renew the order or, after notice to the parties and a hearing, to make some other disposition of the case.

The disposition of a child neglected or dependent is to be based on the "best interests of the child" (see Bennett v. Bennett, 277 Minn. 227, 152 N.W.2d 187, 1967; and In re Welfare of Doege, ____ Minn. ____, 240 N.W. 2d 562, 1976).

The court is to include in this order, or in a separate document, findings which set forth the reasons why the court decided on the particular disposition and the facts upon which such reasons were based. Minnesota JCR 6-7 states that dispositional orders placing a child under court directed supervision are to be reviewed periodically, in accordance with Rule 6-7. In neglect or dependency cases, if the original disposition order places the child under protective supervision, the court is to review the order at least once prior to its expiration date. The court may review a dispositional order under Rule 6-7 and order any disposition which it considers appropriate under the circumstances and which it could have ordered under Minnesota Juvenile Court Act at the original disposition of hearing, provided that the court does not increase the severity of the disposition. Any increase in the severity of the disposition can only be done pursuant to a hearing held under Article 4 of Minnesota Juvenile Court Rules. Minnesota JCR 2-1 clearly states that a child has the right to counsel at any and all stages of the case. This right arises the moment a child is taken into custody by a representative of the State and includes the right to consult with counsel at reasonable times while the child is in custody or detention. The parent and the child are entitled to representation by counsel appointed by the court at county expense if the parent of the child who is the subject of the case cannot afford to obtain counsel. If interests of the child appear to conflict with those of the parent, both parent and child shall be provided separate counsel. Under Rule 2-1 (5) the interests of a child and his/her parent are deemed to conflict in a neglect, dependency, or termination-of-parental rights case.

Whenever the conflict is such that separate counsel is appointed, appointment of a guardian ad litem is mandatory (see Minnesota JCR 9-1). Appointment of a guardian ad litem is also mandatory during the detention period prior to the filing of the petition when it appears that a neglect, dependency, or termination-of-parental-rights case will be brought before the court. The court may appoint a guardian ad litem whenever in its discretion it deems it to be in the best interests of the child (see Minnesota Statute 260.155).

## THE USE OF CRIMINAL COURT.

> Purpose of criminal prosecution: To gain control over the offender whether the ultimate result is treatment or punishment.
>
> vs.
>
> Purpose of neglect/dependency proceeding: To gain custody of the abused child to protect him/her from further acts and to allow for treatment. (*The juvenile court does not have control over the parents or abuser.*)

The Minnesota Statutes under which criminal prosecution will likely be initiated are:

609.342 - Criminal Sexual Conduct - 1st Degree

609.343 - Criminal Sexual Conduct - 2nd Degree

609.344 - Criminal Sexual Conduct - 3rd Degree

609.345 - Criminal Sexual Conduct - 4th Degree

609.365 - Incest

(See Legal Definitions of Sexual Abuse, beginning this Chapter.)

Contents of Police Reports.

Reports will include copies of written statements made by the victim and witnesses, the results of any analyses done, copies of search warrants, and written reports by the individual police officers who investigated the case. All reports will be turned over to the county attorney's office.

Action by County Attorney.

The county attorney or his/her assistant will review the police reports and discuss the case with the officers.

Interview Victim. At some point, the county attorney will probably want to meet and talk with the victim. (See Interviewing the Child, in Chapter Five, and Appendix A, Prosecutor's Guide for Taking a Formal Statement from a Victim.) He/she will usually want to do this before action is initiated against the offender. This can be accomplished in one of several ways. The county attorney may sit in on the initial interview with the investigator, or the victim may be asked to come to the county attorney's office. If the victim is reluctant to talk about the incident, it may be necessary to refer the victim to a counselor so that he/she can develop the ability to relate the incident. The offender may not be charged until the county attorney is satisfied the victim would be able to testify.

Standard for Issuing a Complaint. The threshold question is whether there is "probable cause" to believe a crime has been committed and that the person in question is the one who committed that crime. Basically the question is: Is there sufficient information from reliable sources that would lead a reasonable person to conclude that a particular person violated a particular statute?

The county attorney has the discretion to determine whether probable cause exists. Assuming there is probable cause, the county attorney also has the obligation to ask whether he/she personally believes the person committed the crime in question. The prosecutor's duty is not just to see that people are convicted, but to see that justice is done and that the defendant receives a fair trial.

The ultimate decision as to whether or not a case should be charged is within the discretion of the county attorney. If the case is turned down, there is virtually no recourse except to try to supply the county attorney with additional information to pursuade him/her to change the decision. If the county attorney continually refuses to charge sexual abuse cases, keep in mind that he/she is an elected official and should be held accountable to the public for his/her position.

Use of Grand Jury.

A Grand Jury is summoned to convene at the request of the county attorney. It must be used in first degree murder and treason cases and can be used for other cases at the discretion of the county attorney.

The Grand Jury is basically a tool of the prosecutorial process. Its function is accusatory. Like county attorneys, the Grand Jury has the discretion to issue or not issue a case against a particular person.

Grand Jury proceedings are not open to the public. Only the members of the jury, a court reporter, a bailiff, a county attorney, and witnesses can be present. The county attorney facilitates the Grand Jury's action by calling witnesses, questioning witnesses, and locating other witnesses from whom the Grand Jury may want to hear testimony.

If the Grand Jury decides that there is probable cause to believe a crime has been committed, then it will issue an "indictment," rather than a "complaint." Complaints are issued by the county attorney.

The county attorney may want to use the Grand Jury process in sexual abuse cases in order to see what kind of witnesses the case has or whether or not the victim will be able to testify. It also allows the county attorney to see whether the case has any weaknesses.

Question: Once a complaint or indictment has been issued, can the victim decide to have the case dropped?

Answer: No. Once a case is issued, it is within the discretion of the county attorney to dismiss a case. This is because the criminal proceeding is initiated by the State on behalf of the citizens and not on behalf of a particular person.

The Trial Process.

RULE: The criminal justice system is set up to see that the rights of an individual accused of a crime are protected and that he/she gets a fair trial.

Question: What is an Omnibus Hearing?

Answer: It is a proceeding held before the jury trial at which a judge, sitting without a jury, decides whether certain evidence will be admitted at trial. For example, the judge will determine whether a confession taken from a defendant was voluntary or taken against his/her constitutional rights.

Question: When is a person charged with sexual abuse of a child entitled to a jury trial?

Answer: The defendant has a constitutional right to have his/her case tried by a jury. The prosecutor and the victim cannot decide to eliminate the presence of a jury.

Question: Can the judge exclude the public from a sexual abuse trial?

Answer: No. The defendant has a constitutional right to have his/her trial open to public scrutiny.

Question: Does the victim have to testify in court?

Answer: Yes. The defendant has a constitutional right to confront the person who is accusing him/her of a crime (see Testimony of the Victim, following).

Question: Can the defendant be removed from the courtroom while a sexual abuse victim testifies?

Answer: No. The defendant has a constitutional right to confront those who are accusing him/her of a crime or those who are witnesses.

Question: Does the defendant have to testify?

Answer: No. The defendant does not have to take the stand to testify and if the defendant does not testify no one, including the judge, can ever comment on his/her failure to testify.

Question: Who has the burden of proving the defendant committed sexual abuse?

Answer: The defendant is presumed innocent throughout the trial. The State or prosecutor must prove the defendant is guilty beyond a reasonable doubt. The defendant has no burden of proving his/her innocence.

Question: What does "beyond a reasonable doubt" mean?

Answer: It is the standard or test the jury must apply to determine whether the defendant is guilty or not guilty. The jurors must be satisfied that the defendant is guilty beyond a reasonable doubt. It is *not* the same as "beyond all possibility of doubt," or "beyond a shadow of a doubt." The jurors must be persuaded "to a moral certainty."

Question: Do all 12 jurors have to agree on the verdict?

Answer: Yes. The verdict must be unanimous. If one juror disagrees the jury will be considered to be a "hung jury" and the trial must begin again.

Evidence Used at the Trial.

Testimony of the Victim. The victim must testify at the trial. He/she can relate to the jury the details of the instances of sexual abuse. The victim can tell whom he/she told about the incident and can repeat statements that the offender may have made to him/her. In addition, the victim can relate prior incidents with the offender if they are within a reasonable period of time from the primary incident.

The defendant may challenge the "competency" of the victim to testify. This may be done to test whether a young child is able to understand the oath given him/her to tell the truth. Generally, the judge will meet with the victim in

chambers and make his/her own decision as to competency. If the judge determines that the victim is not competent to testify and there is not substantial corroborating evidence, the case most likely will be dropped.

Testimony of Persons with whom the Victim Spoke. Teachers, friends, relatives, neighbors, anyone with whom the victim spoke about the incident(s) can be called to testify. They can repeat comments the victim may have made describing the abuse or describing the offender's conduct. Their testimony can be used to corroborate the fact that the victim's description of the events has remained consistent. Further, their testimony may help explain instances where the victim may have attempted to report the acts to someone.

State v. Presley, 300 Minn. 556, 200 NW2d 486 (1974)
State v. Weigold, 281 Minn. 73, 160 NW2d 577 (1968)

Testimony of Non-Offending Parent. Generally, husbands and wives cannot testify against one another. However, Minnesota Statute 595.02 eliminates the husband-wife privilege where child abuse is the issue. Therefore, if the offender makes admissions to his/her spouse, that spouse can be subpoenaed to testify.

Testimony from Other Children with whom the Offender may have had Contact. Oftentimes, if there is more than one child in the home, those other children may also have been abused. In addition, other children who have been in the home as overnight guests or babysitters may also have been approached by the offender. These other children or individuals can relate their experiences with the offender if the nature of their contact is similar to that which the primary victim experienced and it is sufficiently close in time to the primary incident. It is for the judge alone to decide whether the testimony concerning other incidents will be admitted.

Minnesota Rules of Evidence 404
State v. Spreigl, 272 Minn. 488, 139 NW2d 167 (1965)
State v. Hopfe, 249 Minn. 464, 82 NW2d 681 (1957)

Physical Evidence. Objects that were recovered from the crime scene or from the possession of the offender may be admitted to corroborate the victim's description of the events. For example, if the offender showed the victim pornographic magazines before each encounter, the magazines will substantiate what the victim is saying. Likewise, devices or objects used by the offender on the victim may also be submitted during a trial. The judge will determine the admissibility of physical evidence based on whether or not the evidence was seized without violating the defendant's constitutional rights.

Demonstrative Evidence. Diagrams and photographs are helpful to demonstrate the conditions under which the abuse occurred. Photographs should also be used to show the jury any physical injuries to the victim.

Results of Medical Examinations or Evidentiary Analysis:

Physical examination of the victim. Whether or not a physical examination is conducted depends on how recent the contact was and/or the victim's age and emotional attitude toward an examination (see Gathering of Medical Data, in Chapter Five). If the contact was recent, an

examination should be conducted following the protocol set up for victims of rape (see Protocol for Medical Examination of Sexually Abused Children, in Chapter Five, Appendix B). If the contact took place several weeks ago or more, a physical examination may still reveal corroborative evidence. For example, a physician may be able to detect scarring from previous acts of penetration or contact or from infections. There may be evidence of abnormal stretching or dilation of the vagina or anus. Whatever the nature of the examination, the physican can relate his/her findings to the jury. These results may provide some corroboration for the victim's description of the abuse.

Evidentiary Analysis. Individuals who conducted analyses on samples gathered either by the investigators or by a physician may testify as to the results of the tests. For example, if semen or saliva stains were found on the victim, tests could be conducted to determine the blood type of the person who was the source of the semen or saliva (see Appendix B).

Other People who may have Witnessed the Incident or Witnessed the Injuries. While there is seldom an eyewitness to a sexual abuse incident, there may be people who witnessed the crime in other ways. A neighbor may have heard the child cry out during the night on various occasions or may have heard the sounds of strange movements coming from a child's bedroom at night. A teacher, friend, or relative may have observed cuts or bruises at or near a time when the victim says the abuse took place.

Statements or Admissions Made by the Defendant Indicating Guilt. If the statements were made to police officers, the judge must determine whether the defendant made the comments voluntarily. If the statements were voluntary, the police officers to whom the statements were made can repeat them. If the defendant made a voluntary written or taped confession, the entire confession may be shown to the jury or the tape may be played. It may be advisable to have key pages of a confession enlarged for display to the jury. If the statements were made to private citizens, those people can be called upon to repeat the remarks in court. For example, the defendent may have admitted his/her involvement to a friend or relative.

Testimony from an Expert Witness. Under the Minnesota Rules of Evidence, expert testimony can be used in any situation where the expert has specialized knowledge in a particular area which will assist a jury in understanding the evidence heard from other witnesses or in determining a fact question which may be an issue in a case. In a family sexual abuse case, an expert can provide information to help the jury understand why victims do not report the sexual behavior earlier and why they do not resist the sexual contact. Both of these factors assist the jury in determining the basic credibility of child victims. In addition, in a more general sense, the jury can come to understand the extent to which child victims can be injured by such activity and to recognize the prevalence of sexual abuse of children in the community. Again, both of these factors go to assist and substantiate the credibility of the victim. The form of the expert's testimony itself may be either as an opinion or as an inference drawn from the facts presented to the expert. It is not necessary that the expert actually have spoken with the incest victim. The manner in which an expert's opinion is solicited can be done by way of presenting the expert with a hypothetical fact situation and then asking the expert to comment on those facts. Quoting directly from the Rules of Evidence, they provide as follows:

> The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing . . . Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact (jury).

Therefore, it is not necessary that the expert has actually met with or treated the victim in the case.

The expert must be someone whose educational background qualifies him/her to treat a victim. Generally, the court will require someone with advanced degrees related to this area. In addition, it is necessary to have someone who has had extensive experience working with sexual abuse victims.

Minnesota Rules of Evidence 702
State v. Goblirsch, ____ Minn. ____, 246 NW2d 12 (1976)
Moteberg v. Johnson, 297 Minn. 28, 210 NW2d 27 (1973)
People v. Taylor, 66 Mich. 456, 239 NW2d 627 (1976)
Hagen v. Swenson, 306 Minn. 527, 236 NW2d 161 (1975)
Trimble v. Hedman, 291 Minn. 442, 192 NW2d 432 (1972)

After a Plea of Guilty or Guilty Verdict: Plea Negotiations. The prosecutor and the defense attorney may agree to a negotiated disposition in any criminal case, including sexual abuse cases. Both the prosecutor and the defense attorney may have an incentive to negotiate a case if their respective cases have any substantial weaknesses. A prosecutor may have an additional motive if the victim is very young or there is a possibility that the victim may have an exceptionally difficult time testifying. On the other hand, a defense attorney may be motivated to enter a plea under a specific agreement to avoid the publicity of a trial. The reasons for plea negotiations are many, and the form of the negotiation is limitless.

For example, in exchange for a guilty plea the parties may agree on any one of the following dispositions:

1. The prosecutor may reduce the charge from one degree of criminial sexual conduct to a less severe degree, without making any recommendation.

2. The prosecutor and defense may jointly recommend to the judge that the defendant receive probation and the conditions of probation may include: treatment, a limited county jail term, a fine or any combination of these. The probation may extend for the period of time the defendant could have been sent to prison. For example, a judge could place a defendant on probation for 15 years if he/she pled guilty to criminal sexual conduct in the second degree.

3. There may be a joint recommendation that if the defendant is sent to prison it will be for a limited amount of time.

The possibilities are endless. A judge, however, has the right to reject the negotiation if he/she believes the agreement is too lenient or too harsh. If the judge rejects the plea agreement, the defendant may withdraw his/her guilty plea and go to trial. If the plea is accepted, it is the same as if the defendant had been convicted by a jury.

Guilty Verdict. If the defendant is convicted by a jury or by a judge (if the defendant waived a jury), the judge has the right to impose any sentence within the provision of the statute.

Presentence Investigation (PSI). Whether the defendant pled guilty or was found guilty, Minnesota Statute 609.116 provides that persons convicted of sex offenses must undergo a presentence investigation (see Court Services, concluding this Chapter). The defendant should be given a psychological and/or psychiatric examination. The PSI will be conducted by the probation officer or agent assigned to the defendant, with the assistance of the county mental health center. A report summarizing the results of the investigation will be submitted to the judge. Generally, the probation officer will also make a recommendation on the disposition, or will comment on whether the plea negotiation was appropriate.

Sentencing. After the judge reviews the PSI report, the defendant will appear for sentencing. At that time the negotiated sentence will be imposed or, if the conviction was the result of a jury verdict, the judge will impose his/her own sentence.

## COURT SERVICES

The primary functions of the probation officer are to perform the following tasks for the court:

1. Collect data and recommend to the court on the basis of the data the most appropriate sentence for the convicted offender.

2. Recommend social and other services in terms of probation.

3. Provide supervision to those persons who are granted probation.

### The Pre-Sentence Investigation (PSI).

The document that the court relies on to provide it with accurate, up-to-date information regarding a criminal act and a complete profile of the offender is called the Pre-Sentence Investigation (PSI). Currently, in the State of Minnesota, the courts are required to request a PSI on a convicted sex offender and to order that the convicted sex offender undergo a psychological and/or psychiatric evaluation.

Sexual assault victims should have an opportunity to express their version of the offense and subsequent problems resulting from the assault to the court.

At the time that the court requests that court services conduct a PSI, the court could also request that the victim be interviewed and that the child's interpretation of the offense and any concerns, problems, and needs that he/she has be included in the report. Some court service units in Minnesota have added a section to the PSI for this purpose and/or require probation officers to contact sexual assault victims to obtain additional data that could be pertinent to developing the recommended disposition. In some instances, the writer of the PSI may have received conflicting information with regard to the offense, in which case it might also be necessary to interview the victim. Repetition of the intimate details of the offense can be harmful to the victim. An available option is to provide the victim with the official version of the offense and ask that the victim add any additional information and make any corrections.

In recognizing that incest can be an extremely traumatic experience, it becomes important that court services acknowledge that the personal safety and protection from further sexual victimization by the offender is of great importance to the victim, the victim's family, or both. In order to address these concerns, court service personnel can provide them with the following:

1. Information as to the apprehension and release of the offender. This can be vital when the offender is one of the victim's parents and the parents are estranged.

2. The opportunity to have the victim's personal safety considered in the bail evaluation process. This can be very important when the victim is an adolescent and the offender is a member of the family.

3. Information as to the development of the case through Criminal Court. Criminal Court proceedings are occasionally long in duration; victims and their families should periodically be updated as to the status of the criminal proceedings.

Upon completion, the PSI should provide the court with information regarding both the offender and his/her prospect for rehabilitation and the impact of the offense upon the victim of the crime.

In an incest case, many persons have information or access to information regarding the impact of the offense on the victim. For example, a teacher can discuss the behavior of the child victim within the school environment and possibly provide the writer of the PSI with speculative information as to when the incest began. Consultation with the child victim's physician can provide the writer with medical history that might suggest that the incest has been occurring over a period of time. If it is speculated that the incest has occurred over an extended period, the PSI should reflect this information.

Coordination with Other Agencies and Institutions.

If an agency or institution provides service to the victim of the crime, it is important that the writer of the PSI make contact with that agency to obtain as much complete data as available and assess its relevant value to the investigation. Many counties in Minnesota have established child abuse teams representing a variety of disciplines that impact on child incest victims and their families (see Chapter Five, Appendix A, for the Ramsey County example of who might be on this team). Each member of this team has access to information regarding the victim, the victim's family and, depending upon the nature of the abuse, the offender. Ideally, the team shares their information, discusses options, and collectively makes recommendations as to the most effective method of addressing the abuse (see The Team Approach, in Chapter Five).

It would be helpful for the probation officer to have access to the data collected by team members and to be informed of their recommendations. The probation officer could, perhaps, concur with the recommendations of the team and, thereby, incorporate the recommendations into the sentence. This could prove to be helpful when working with an incest case and it appears that the decision is not to recommend incarceration in a State penal institution. The probation officer could support community-based treatment, but might recommend that the offender be allowed to participate on a conditional basis. The conditions might include restricted visitation

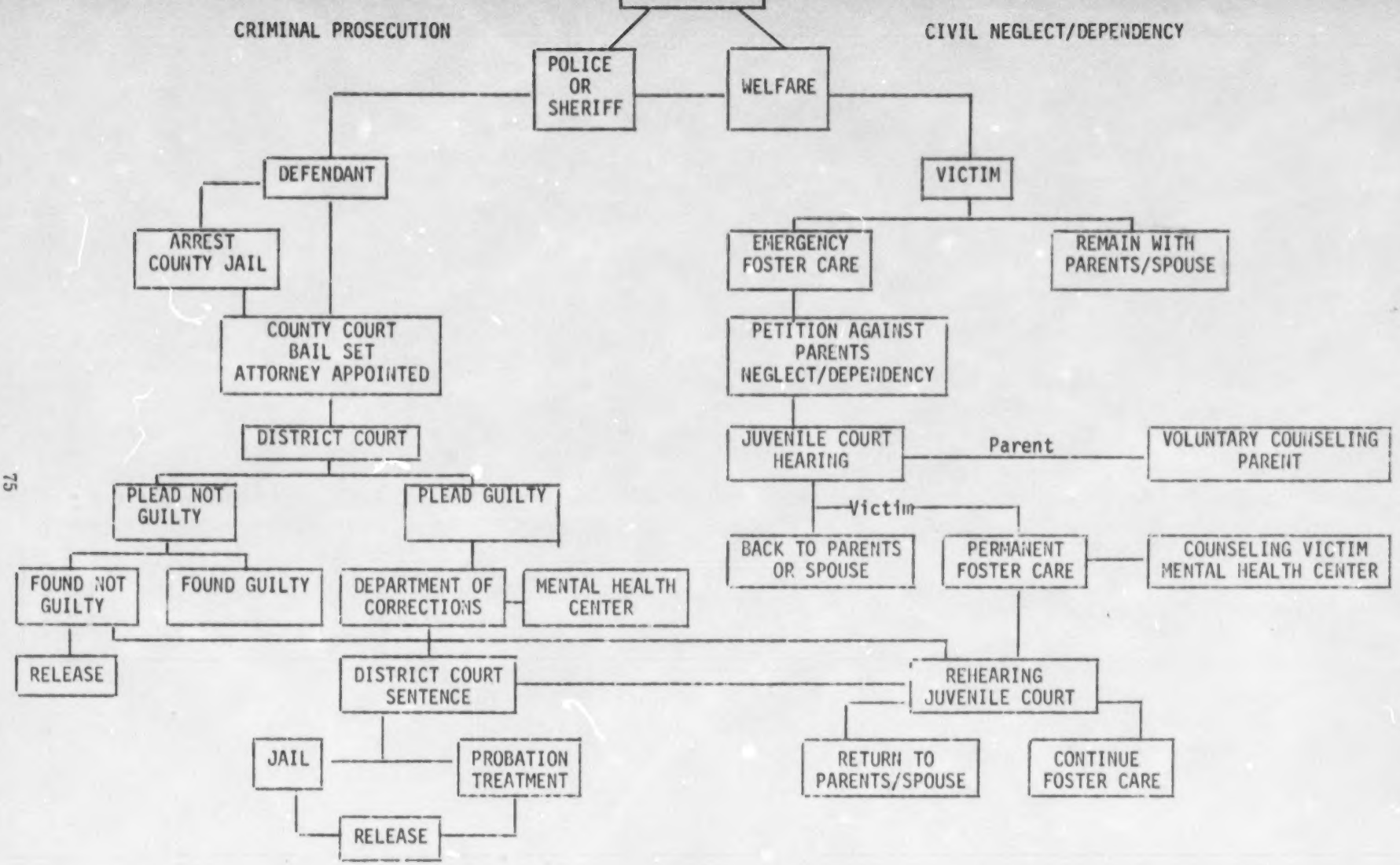
with the victim and other family members, active involvement in family therapy, or continued financial support. When the team recommends that a victim or his/her family members receive counseling in order to cope with the victimization, the probation officer could, if appropriate, recommend to the court that the offender be required to pay for these services in the form of restitution.

> Case example: A district court judge in the State of Minnesota recently ordered that a convicted sex offender pay for therapy needed by the victim and the victim's family in an amount not to exceed $2,000.

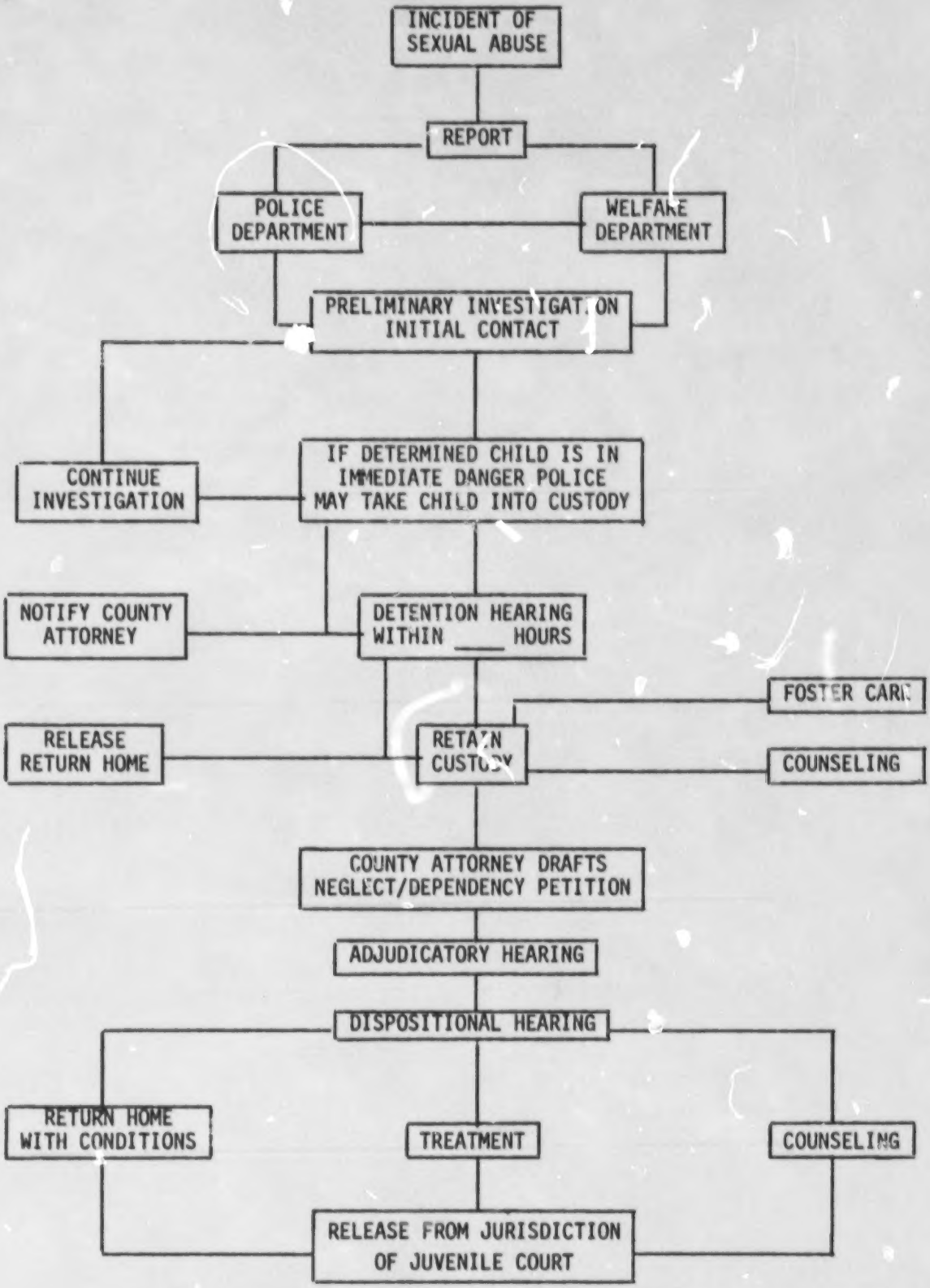
In understanding that some sex offenders appear to be normal, stable persons, it is sometimes difficult to evaluate the safety of the victim and the community and the likelihood of the offender's continued participation in criminal sexual behavior. It is most helpful to the probation officer to have access to the psychologist or psychiatrist who conducted the evaluation of the offender so that the evaluator can assist the probation officer in recommending the sentence that will be most appropriate for the offender. It is also essential for the probation officer to be informed as to the availability and variety of community-based treatment programs on a local and statewide level so that the psychologist or psychiatrist can recommend and the judge can impose the sentence that is consistent with the offender's prospective rehabilitation.

Identification of Incest Victims.

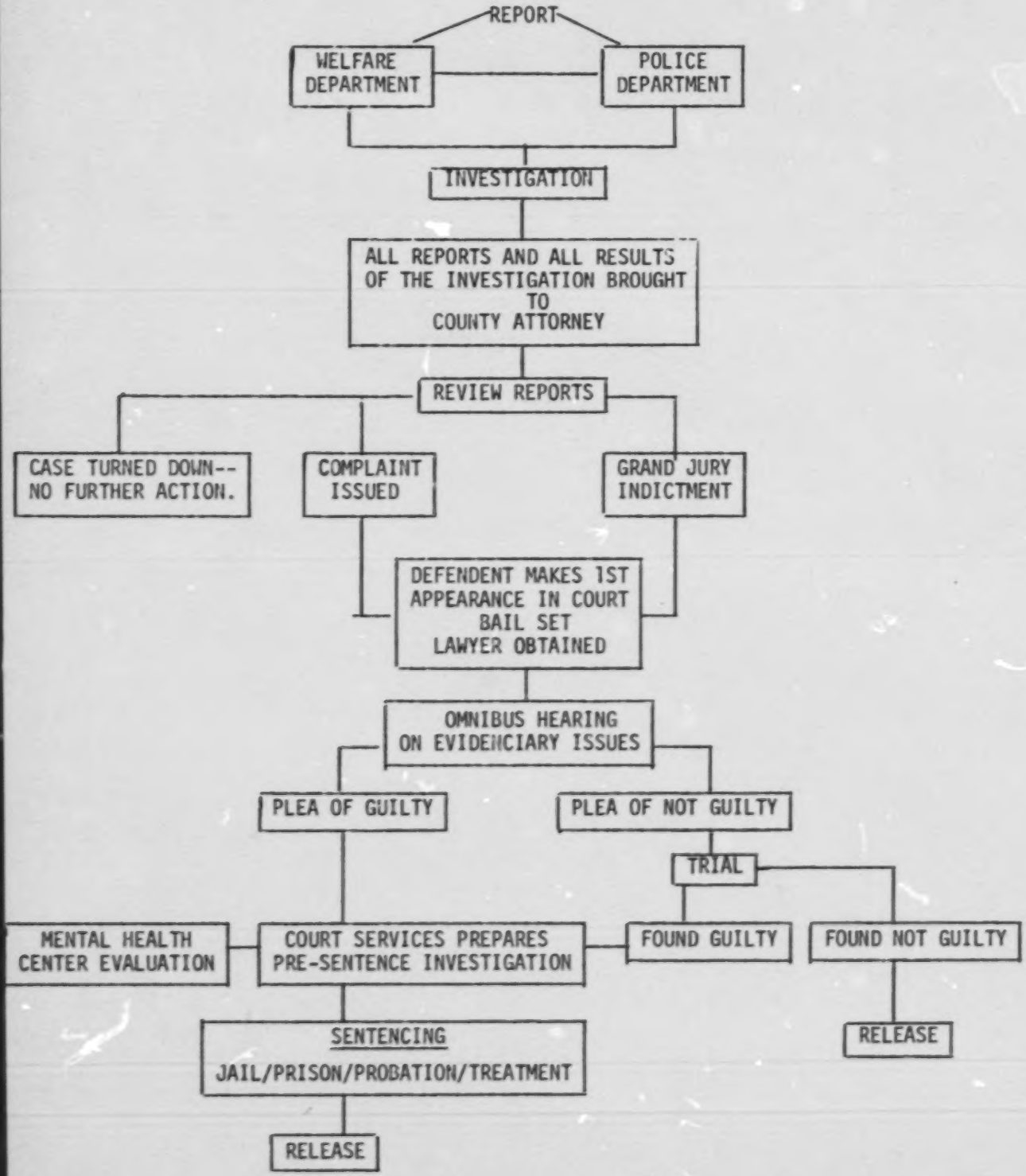
Probation officers supervise children who have been adjudicated delinquent. In the routine evaluation of the delinquent child's progress, it is helpful to keep in mind that children may continue to act out or to display inappropriate behavior in order to express feelings of pain or anxiety about something that is occurring in their personal lives. Delinquent behavior may result from involvement in an incestuous relationship. Pages 14-16 in Chapter Three, Identification of the Victim and the Family, cites some of the signs that may indicate that a child is being sexually abused. If the child begins or continues to display such inappropriate behavior and incest is suspected, the supervising probation officer should relay this information to the appropriate agency for investigation.


CRIMINAL PROSECUTION
CIVIL NEGLECT/DEPENDENCY
POLICE OR SHERIFF
WELFARE
DEFENDANT
VICTIM
ARREST COUNTY JAIL
EMERGENCY FOSTER CARE
REMAIN WITH PARENTS/SPOUSE
COUNTY COURT BAIL SET ATTORNEY APPOINTED
PETITION AGAINST PARENTS NEGLECT/DEPENDENCY
DISTRICT COURT
JUVENILE COURT HEARING
Parent
VOLUNTARY COUNSELING PARENT
PLEAD NOT GUILTY
PLEAD GUILTY
Victim
BACK TO PARENTS OR SPOUSE
PERMANENT FOSTER CARE
COUNSELING VICTIM MENTAL HEALTH CENTER
FOUND NOT GUILTY
FOUND GUILTY
DEPARTMENT OF CORRECTIONS
MENTAL HEALTH CENTER
RELEASE
DISTRICT COURT SENTENCE
REHEARING JUVENILE COURT
JAIL
PROBATION TREATMENT
RETURN TO PARENTS/SPOUSE
CONTINUE FOSTER CARE
RELEASE

JUVENILE COURT
CIVIL NEGLECT/DEPENDENCY PROCESS



## CRIMINAL PROSECUTION



## APPENDIX A

## PROSECUTOR'S GUIDE FOR TAKING A FORMAL STATEMENT FROM A VICTIM

Taking a useful statement from a child victim of sexual abuse requires skill and sensitivity. A careful reading of Interviewing the Child, in Chapter Five, is strongly recommended before adapting this guide for use.

A. General guidelines

1. Ask child whom he/she wants present
2. Use words/gestures which are understandable
3. May need to use dolls or figures to demonstrate

B. Areas of interrogation

1. How contact began
2. What approach does the offender use:
   a. threats
   b. physical abuse of victim, other family members, or pets
   c. affection
3. What words does offender use
4. Pin down dates:
   a. in relation to other events, seasons, school, holidays, TV shows
   b. how frequent the contact
   c. need at least one specific incident (last one)
5. Nature of incident:
   a. any special time of day
   b. what offender was wearing
   c. what victim was wearing
   d. who else present in home
   e. description of act
      (1) describe motion of body ("up and down")
      (2) weight of body on victim
      (3) sounds offender was making
      (4) felt any liquid (semen)
      (5) describe liquid — color, texture, smell

6. Physical evidence

   a. torn clothing
   b. standard sexual assault evidence if incident is recent
   c. physician's report
   d. pornographic magazines — photographs

7. Who has victim told (names/addresses)

8. Why not told sooner

9. Other victims

## METHODS TO CORROBORATE THE VICTIM'S STATEMENT

A. Schools

1. Who

   a. nurses
   b. teachers
   c. main file
   d. counselors

2. How to obtain:

   a. consent from parents or county (if county has custody)
   b. search warrant
   c. court order
   d. subpoena

3. Purpose: Notations about observations of child's physical and/or emotional state; and comments child may have made

B. Medical

1. hospitals

2. family physician — history of medical problems

C. Other victims

1. relatives

2. babysitters

3. friends of victim who may have spent night in offender's home

D. Statements to others

1. teachers
2. counselors
3. neighbors
4. relatives
5. babysitter or day care

E. Statement from spouse

## APPENDIX B

## DETAILS OF LABORATORY TESTING

The collection and handling of specimens obtained in the examination of the sexual assault victim depends on what laboratory testing is to be done, and whether the testing will be done in part by the hospital laboratory, or whether all testing will be done by the Crime Laboratory at the Minnesota Bureau of Criminal Apprehension.* The following protocol lists the evidence which should always be obtained for the Crime Laboratory as well as other suggested items that the hospital laboratory can use in additional examinations.

Samples for Laboratory Testing.

1. BLOOD — (two tubes; one for crime laboratory and one for hospital.) Draw a tube of venous blood for crime laboratory using an anti-coagulated tube (grey top). The blood sample is used to determine the victim's blood type and enzyme characteristics for comparison with those of the assailant. If it is determined that a serologic test should be performed, a second blood sample is drawn in a serum tube (red top) for the hospital venereal disease testing.

2. SALIVA — (one sample for crime laboratory.) Sample of saliva on a clean gauze square is used to determine the victim's secretor status, i.e. whether or not the victim secretes his/her blood group substances in body secretions. It is imperative that no one but the victim touch the gauze, since perspiration from another "secretor" could contaminate the sample. Have the patient place a sterile 1x1 gauze square in his/her mouth and saturate it with saliva. Have the patient place the gauze on a glass slide and allow the sample to air dry. When the gauze is dry, put the glass slide and the gauze in a small manila envelope, identify, seal (do not lick the envelope flap since this could also be a source of contamination), initial or sign across the envelop flap. REMINDER: No one but the victim should handle the gauze.

3. VAGINAL SWABS — (crime laboratory sample.) Swabbings of the vaginal vault (or other body areas where ejaculation may have taken place) are used to detect sperm, and to collect material for enzyme evaluation. The enzyme characteristics of the sample taken could potentially be compared with those of various suspects, or the defendent.

   Swab the vaginal vault with a dry cotton-tipped applicator stick. This swab should be used to make a smear on a clean glass microscope slide. Allow the slide and swab to air dry. Place the slide in a slide mailer, and place the swab in an envelope. Identify the source, seal, and initial the containers. Swabs should also be taken and slides made of other suspected areas such as the oral cavity, the anus/rectum, and suspicious skin areas (do not chemically fix the slide or use saline to moisten the applicators prior to use. This is in distinct contrast to the procedure recommended for hospital examination).

*1246 University Avenue, St. Paul, Minnesota 55104

4. VAGINAL SWABS — (hospital sample.) Several vaginal swabs are to be collected, and these can be used for several laboratory examinations:

   a. Wet Preparation. Use a sterile cotton-tipped applicator and swab the vaginal vault. The cotton should be thoroughly saturated with vaginal fluid and should be agitated in 3 cc's of sterile saline. The saline should contain no preservatives (blood bank saline is recommended). The swab is twirled within the saline and wrung out on the edge of the test tube. The swab should be discarded since the cotton fibers tend to cause sperm deterioration. The sample should be stoppered and submitted to the laboratory. A drop or two of the suspension should be examined without staining under the microscope for the presence of sperm. If sperm are noted, the specimen should be warmed to 37 degrees centigrade for ten minutes in the blood bank incubator and the specimen should be re-examined to evaluate sperm motility. The specimen may be gently centrifuged to concentrate debris for examination. The remainder of the fluid can be utilized for the acid phosphatase determination (see below).

   b. Swab for Stained Smear. A second cotton-tipped applicator is introduced into the vaginal vault. The swab should be saturated and material should be rolled and streaked onto a clean glass microscope slide. The specimen should be immediately fixed with pap stain fixative (either fluid or spray fixative is satisfactory). The slide may be submitted to the hospital laboratory for staining and examination for sperm. This slide does NOT substitute for a valid cytologic examination.

   c. Smear in Culture for Gonorrhea (optional). Swabs for bacteriologic purposes can be obtained if the decision is made to culture for gonorrhea at the time of the initial examination. Swabs should be taken from the cervical canal and the vaginal vault. It is suggested that an additional swab from the anus be taken for the greatest diagnostic accuracy. The swabbing should be processed according to the testing procedures of the hospital laboratory, preferably on Thayer-Martin medium.

      A cervical smear for intra celular diplococci may be made but culture is a preferable diagnostic test.

   d. Acid Phosphatase Examination. The supernatent fluid from the wet preparation above (4a) can be utilized for the acid phosphatase determination. The methodology employed by the hospital laboratory should detract prostatic acid phosphatase.

5. VAGINAL ASPIRATE — (crime laboratory sample.) Material aspirated from the vagina is used to search for the presence of seminal fluid and to check for the presence of blood group substance for possible comparison with the blood group of the assailant. After all of the swabs have been collected, a saline washing (3mm) of the vaginal cavity should be collected and sealed in a marked leakproof container. Three ml of saline should be placed in the container. Identifying data, of course, should be included on the container.

6. PREGNANCY TEST — (hospital sample.) In most facilities a urine test for pregnancy is readily available. This can be performed if indicated.

7. PUBLIC HAIR COMBINGS — (crime laboratory sample.) By combing pubic hair of the victim, it is possible to find "foreign" pubic hairs, and it may later be possible to compare these with the pubic hair of the assailant. Comb the pubic area with a clean plastic comb, collecting any hairs which are removed by the comb. Place the comb and hairs in an envelope, label the specimen as "pubic combings", seal, identify, and initial the sample.

8. PULLED HEAD AND PUBIC HAIRS — (Need not be taken at time of initial examination!) Since pubic hair evaluations will be performed only if an assailant is apprehended, it is suggested that pubic and head hair samples be collected at a later time. If hairs are requested for comparison purposes by the Crime Laboratory, then a minimum of ten pubic hairs and 30 head hairs should be pulled at random over the pubic area and head. The pubic and head hairs should be sealed in separate marked envelopes.

9. FIBERS OR FOREIGN MATERIAL — (crime laboratory sample.) Sometimes seemingly insignificant trace evidence can have a major evidentiary impact. Collect all material on the patient's body which may have originated from someone or something other than the patient; for example, leaves, fibers, hairs or material beneath the fingernails.

10. CLOTHING — (crime laboratory sample.) The victim's garments may contain important blood or body fluid stains, and may provide important trace evidence. Collect undergarments of the victim and other clothing which could contain evidence from the assailant. Place each article of the clothing in a separate, clean paper bag, seal, identify, and initial.

Evidence Check-Off List. The following is a suggested check-off list that can be used by hospitals. The hospital laboratory director should be consulted for laboratory input on collecting evidence for each hospital or medical facility. NOTE: All boxed items are for the Crime Laboratory (BCA) and should *always* be taken. The other items listed are for the hospital laboratory and should be taken only if they are going to be processed at the hospital.

EVIDENCE CHECK-OFF LIST

1. Blood Samples ____

   a. one tube with anti-coagulant (blood grouping) ____

   b. one serum tube (VD test) ____

2. Saliva — dried sample on gauze ____

3. Swabs ____

   a. one vaginal swab and smeared slide ____

   b. swabbings from other body areas (if semen suspected) ____

   c. one vaginal swab — wet preparation ____

   d. one vaginal swab — stained smear ____

   e. one vaginal swab — culture for gonorrhea ____

4. Vaginal Aspirate (Note: Take after all above swabbings are complete) ____

5. Urine sample (Pregnancy test) ____

6. Pubic Hair Combings ____

7. Foreign Fibers or Other Material ____

8. Clothing of Victim ____

# CHAPTER SEVEN
# PROVIDING SERVICES

## CHILD PROTECTION SERVICES

### Definition.

Through the Minnesota Rule Department of Public Welfare (DPW) 207, the State of Minnesota authorizes local welfare departments to intervene on behalf of or in the interest of children whose parents fail to provide minimum community standards of child care. This includes children of sexually abusive families.

### Purpose/Goals.

The purpose of child protective services is to protect the health and welfare of children whose parents are unable or unwilling to do so. This includes protecting children from further abuse, helping parents to adequately fulfill their parental roles, and providing children with proper care.

The general goals of child protection services with regard to sexual abuse are:

1. To assure that every child suspected of being sexually abused receives immediate care and protection;

2. To assure that children in a sexually abusive family receive adequate care on a permanent basis; and

3. To assist the parents to provide such care.

### The Child Protection Worker.

When working with family sexual abuse, it is important to be aware of some of the dynamics of sexual abuse. The incest is a well-guarded family secret, and the family develops a strong denial system. In most, if not all, sexually abusive families, there is also a great deal of manipulation used by family members. It is our belief that underneath the denial system lies a great deal of pain, shame, and guilt felt by each member.

In working with a sexually abusive family, it is important to be direct and honest in order to help deal with the family's denial and manipulation. The worker needs also to be non-judgmental and non-threatening in approach, keeping in mind the family's sense of shame, guilt, and pain. One way to combat the often constant manipulation by family members is to keep in touch with a number of reliable resources with which the family is involved on a regular basis, such as school teachers or counselors, therapists working with the family, probation officers, foster parents, family members, and especially the victim(s). This enables the worker to keep an accurate account of the family's current situation.

The child protection worker's primary task is to provide for the physical and emotional safety of the children; if the children are in the home, at least weekly contact needs to be made. Constant assessment assures adequate protection is being afforded to the minors.

The child protection worker often assumes the role of coordinator of services. This allows the worker to maintain the sense of control needed in regard to the child's safety, while recognizing that he/she cannot provide all services necessary to treat a dysfunctional family. When working with a sexually abusive family, it can be very helpful to use written contracts which specifically outline what the worker expects from family members and various agencies in terms of follow-through with treatment (which services would be involved), visitation plans for children in foster care, time periods involved, etc. The written and signed contract is a useful tool for dealing with a denial system. Also, keep in mind how personally taxing working with sexual abuse is and how crucial it is to have agency support.

The Victim.

When working with a victim of sexual abuse, first and foremost is the child's protection. The worker needs to establish a trust relationship with the child so that the victim is able to tell the worker when the situation deteriorates. Almost all victims tend to feel at one time or another an overwhelming sense of guilt for the abuse and, often, for "allowing" intervention. The worker needs to deal with the victims' self-images, letting them know that they are worthwhile human beings, that they do have control over their bodies, and that they do not have to be violated. Involving children with systems outside of their families is very helpful: sports, girl scouts, school activities, or making use of their creative talents such as drama or art are possibilities.

The Offender.

For the child's protection, and to help confront the family denial system, the perpetrator can be removed temporarily from the home. In many cases, the judge in the criminal justice system can order this at the first appearance, perhaps with imprisonment as an alternative. Be sure to monitor the situation, if this is the case.

As stated earlier, it is our belief that the offender has a great deal of pain under the denial and is in need of treatment for his/her actions of sexual abuse. Oftentimes, the child protection worker can provide helpful crisis counseling for the perpetrator and, often, the entire family. It is crucial to carefully address the qualifications of the person or agency providing treatment to the sexual offender. Too often a counselor may minimize the problem or avoid focusing on the sexual abuse, ending up not being at all helpful, but, rather, harmful to the perpetrator and the entire family.

## The Family.

A major thrust of a child protection service's involvement with a sexually abusive family is prevention of further abuse to any family member. Careful monitoring of the family situation is important. To achieve the goal of adequate care for the children in a sexually abusive family situation, it is important to define family roles and see them carried out, such as having the parents taking care of the children, not the children "parenting" the adults. Communication is also usually a problem that needs attention. Working with family members to hear what each is really saying, to verbalize their feelings, and to ask for what they need are good starters.

## Placement.

The primary task of child protection services is to assure the victim's safety, and the worker first needs to decide if the child is to remain in the home or be placed immediately. If the decision is to place the child, a police hold and/or order of Juvenile Court is needed to place the child under temporary custody of the welfare department (see Taking Physical Custody of the Child, in Chapter Six). The worker then needs to assist the county attorney with a dependency or neglect petition by providing the facts and submitting necessary reports.

According to Minnesota Department of Public Welfare guidelines, the parents should be offered the opportunity to place a child voluntarily, with, perhaps, a temporary placement agreement. However, it has been our experience that a sexually abusive family has a tendency to manipulate and to remove the child from foster care when the family "core" is threatened. For the child's assured safety, if placement is needed, Juvenile Court should be involved. (See Adjudicatory Hearing and Dispositional Hearing, in Chapter Six, for relevant Juvenile Court procedures.)

In making the decision to place a child out of the home, many factors need to be weighed, such as the child's feeling of abandonment, the family's separation feelings, the foster family's willingness to work with a sexually abusive family, and whether the child will feel secure in the foster home. The transition can be made smoother by talking with family members about the impact of the placement and helping the child to feel safe and accepted in the strange foster home. Victims may also question why they are being removed from the home when, perhaps, the perpetrator remains in the home. Be prepared to help them deal with this. It is often also important to the child that at least some of his/her clothes and belongings, such as toys, family pictures, or jewelry be secured from the home and taken to the placement.

## Assessment/Services.

In the initial stages of intervention, an assessment needs to be made of the family's problems and of services that can help the family resolve these problems. Again, a written contract is a useful tool and can be periodically updated. When available, the county child abuse team can be helpful by staffing a case to line up appropriate services to meet the family's needs.

## Chemical Dependency.

There is a high frequency of chemically dependent persons in sexually abusive families, including perpetrators, spouses, and victims. (See Chapter Three, Identification of the Victim and the Family, for relevant statistics.) The worker needs to know to what degree chemicals are used by family members. The worker can gather

information by asking each member such questions as, "What is/has been your chemical usage? Was the perpetrator using chemicals before, during, or after sexual contact? How long have you been using? How long would it take you to finish a case of beer (or whatever)? What happens/how do you act when using? What problems has using created for you (legal, family, car accidents)? What do you do when you are intoxicated? Be especially aware of blackouts and suicidal tendencies, and look for signs of misuse such as falling asleep while driving. Other contacts might include asking significant others if the family member's personality seems different or what problems his/her drinking has created for them. If there appears to be a chemical problem, refer the family member(s) to a chemical dependency evaluation. Chemical dependency treatment resources might include inpatient treatment, AA groups, Al-Anon groups, and outpatient counseling. If charges for criminal sexual conduct or driving while intoxicated (DWI) have been filed, be aware that a probation officer could be a resource by recommending mandatory treatment (see Court Services, in Chapter Six).

Mental Illness/Emotional Disturbances.

Given their low self-image, tremendous guilt, and confusion, there is a definite risk of suicidal behavior among victims of sexual abuse. A good diagnostic tool for victims, perpetrators, and their families is a mental health evaluation, which might include projective testing to penetrate the individuals' strong defenses. The worker can provide the evaluator with such information as the facts of the sexual abuse, behavior patterns within the family, such as violence, and specific data on family members, such as their impulse control, sense of right and wrong, contact with reality, paranoia, depression, sense of guilt, and general life-coping skills. Treatment resources may include inpatient psychiatric evaluation and/or treatment, outpatient counseling, and self-help groups (women's identity, grieving, etc.).

Other Treatment Programs/Service Agencies.

The family may have other problems, such as poor nutrition, financial trouble, inadequate housing, poor housekeeping, social isolation, difficulty in school, inappropriate discipline methods, or lack of medical care. Involve the appropriate community resources, for instance, public health nurses, homemakers, Special Learning Behavior Problems programs, school counselor's support groups, Housing Redevelopment Authority, food stamp programs, or daycare.

There are programs and counselors that work specifically with sexually abusive families. Remember, all family members need to be involved with treatment. Referrals to such programs should be made immediately. Funding is often available through insurance companies or State funding or, perhaps, Juvenile Court might order the payment through welfare or court services. Again, it is important that the facility or therapist servicing the family be well-trained and willing to work with the family on the problem of sexual abuse. Many resources offer support groups of peers for victims, perpetrators, spouses, and siblings. If criminal charges have been filed, it is helpful to work closely with the offender's probation officer (see Court Services, in Chapter Six).

Court Involvement.

Although it would be desirable to work with families on a voluntary basis, the dynamics of family sexual abuse make it almost impossible to do so in the vast majority of cases. The workable alternative is to proceed simultaneously with Criminal and Juvenile Court involvement and to work closely with court service

officers (for offenders), juvenile judges, and county attorneys. Such a coordinated system seems to be successful, especially when dealing with the family's strong sense of denial.

The child protection worker can petition the minor children on either a dependency or neglect basis, bringing the matter to the attention of the juvenile judge (see Civil Neglect/Dependency Process, in Chapter Six). Many alternatives for the children's protection are available once the matter is before the court. Immediate custody and placement in a foster home, conditional placement in the non-abusive parent's home, protective supervision of the children while in the parents' home, and/or inpatient treatment for the victim are among the options. Court involvement can be a catalyst for treatment either through mandatory services ordered by a Criminal Court sentence in the form of counseling, inpatient chemical dependency care, imprisonment, or through the recommendation of the Juvenile Court.

The proper use of the judicial system can provide the child protection worker with necessary controls over the child's safety, as well as providing the family with adequate treatment for the sexual abuse, thus helping accomplish the goal of child protection services (see Chapter Six, Using the Judicial System).

## THE ROLE OF THE SCHOOL

As of 1975, school personnel in the State of Minnesota have been mandated by law to report physical and sexual abuse. More recently, as of August 1, 1978, educators have also been mandated to report suspected neglect.

Beyond reporting suspected abuse, it appears that the school has some other very important roles to perform. Areas of possible involvement related to the child victim of sexual abuse include:

1. Identification of sexual abuse
2. Reporting processes and procedures
3. Input into investigation
4. Support for the child during the investigative process
5. Participation in the treatment component
6. Follow-up

While it is imperative that educators be involved in areas that pertain to the child, it is also important that schools consider becoming involved, as institutions, in the following areas:

7. Policy development
8. In-service training
9. Curriculum development
10. Coordination

In the following sections, we have expanded on each of these areas of needed school involvement. It should be kept in mind, however, that our comments are general and not totally inclusive.

Identification of Sexual Abuse.

School personnel must be aware of the signs which may indicate that a child is being sexually abused. Chapter Three, Identification of the Victim and the Family, should be read in its entirety, with special attention to the section on Identification of Sexual Abuse in a School Setting.

Reporting Processes and Procedures.

Any teacher suspecting that a child has been abused must report immediately to the county welfare department or to the local police department. (See Chapter Four, The Reporting Statute, for specific reporting procedures.) The oral report must be followed by a written report. It should be remembered that the oral report to the appropriate agency puts the process in motion. Whether the report is called in to the local police or the welfare department, the welfare department has the responsibility to investigate all reports within 24 hours. Educators must remember that it is their responsibility to report abuse. Their report is not accusatory, nor is their report to involve the investigative process. The investigation process is the role of the welfare and police departments.

Because educators feel a sense of obligation not only to students, but also to their supervisors, we encourage school districts to consider developing their own teams. These could be either district-wide or building oriented. The purpose of these school teams should be to provide support to the reporting person, as well as to help facilitate the reporting process. Further, the role of the school team should be to help develop internal procedures in the school district that promote the ease of reporting for school personnel. In no way should this school team be associated with investigation or verification, nor should members of the school team be used to discourage the reporting. In developing internal procedures, schools should concern themselves with developing close relationships with local law enforcement and welfare personnel. If face-to-face relationships can be developed, reporting will be facilitated.

In order for educators to understand the roles of other personnel involved with sexual abuse, we encourage school personnel to read this entire manual. In doing so, hopefully they will understand the procedures from point of referral to disposition, as well as understand the role of each professional throughout the process.

Investigative Input.

The educator's role is not to investigate abuse but to report suspected abuse. The educator should be a source of information in the investigative process primarily because the school has much data on the child and the family over an extended period of time. In cases where the investigator will require non-related data, official release forms should be provided.

Support System.

Most students have some personal involvement with an educator in the school setting who could be of tremendous support, not only during the process of investigation, but in the follow-up of services. Since the student has an ongoing contact with the school, the school should help to establish a support system for the student.

Treatment Component.

When a treatment plan is being designed, educators must be kept in mind as members of the treatment component. While it is not the role of the school to provide treatment, there are many services in school systems that could be incorporated in the treatment plan. It is extremely important that educators be involved when part of the treatment plan includes the change or modification of an educational program. Agencies involved with the child and family should remember that including school personnel in treatment planning increases the likelihood of the school remaining involved. Where agencies do not involve school personnel in planning for the child's needs throughout the treatment process, a later request for special programming may be met with resistance.

Follow-up.

Since most children are involved in the educational system over a long period of time, a coordinated effort on the part of the school and agencies involved with the child can insure that consistent follow-up of the abused child will occur. This follow-up consists of monitoring the child for signs of further abuse or of need for additional intervention. These signs are the same or similar to those that alerted the school to the abuse originally (see Chapter Three, Identification of the Victim and the Family).

To this point we have discussed some general concerns and possible areas of involvement on the part of educators as related to the abused child. While the child is central to our concerns, it is worthwhile to speak to concerns as related to educational systems and their involvement in the area of abuse.

Policy Development.

A school policy is necessary to insure that educators are actively involved in reporting abuse. It is not enough for the law to mandate that educators report suspected abuse. It is important that school boards and administrators support line staff in fulfilling their mandated obligation to report sexual abuse.

In-Service.

Over the years, educators have had to become involved in a number of areas outside the realm of the classroom. If educators are to respond to the problem of sexual abuse, it is appropriate that districts develop large scale in-service programs that both inform teachers and administrators of the problem and develop sound mechanisms for their involvement.

Curriculum Development.

Since it is the job of educators to teach, it is important that they develop curricula that deal with sexual abuse for students at both the elementary and the secondary level. We encourage educators to explore the possibilities from both the developmental and the implementation aspects. When schools develop appropriate curricula, early intervention for children within the schools will be possible.

In the past few years community education has become an integral part of school districts throughout the state. Schools should be encouraged to develop parent education programs from the preschool through adolescent years. When this is accomplished we can assure parents that there are programs available to educate them

in effective methods of child-rearing. It might also be appropriate to encourage community education programs to become involved in the development and implementation of parent support groups that would be run on an ongoing basis and include various agencies within the community.

Coordination.

If the problem of sexual abuse is to be addressed, it will be necessary for educators to take the lead in insuring that there will be coordination of services that affect the child. This is necessary, if for no other reason than the fact that the school is the most central institution in the life of the school-aged child.

We encourage educators to become actively involved in the area of sexual abuse, as well as physical abuse. If we are to meet the educational needs of children it is imperative that we help eliminate conditions that interfere with the task of educating the child to function in his/her world.

## TREATMENT MODEL

In addition to having a knowledge of the dynamics and characteristics of incestuous families, people involved in the treatment of such families should be skilled in individual, family and group therapy approaches and knowledgeable about child and adolescent development. The diversity of skills involved and the stress of working with such disturbed family systems usually require a team approach, involving two or more therapists and support from community health, welfare and corrections agencies.

These families have multiple treatment needs, but, for our purposes, the central focus must be on the sexually abusive behavior and the patterns of interaction among all family members that contribute to it. We have found a three-stage treatment model useful. Following a family evaluation, the family is first seen in small units for treatment. Parents may be seen individually, as a couple, or in specialized groups for offenders or spouses. The victim is usually included in a support group, and the siblings may be seen alone, in small groups, or with one parent. Where needed, chemical dependency treatment is also part of the first phase of treatment and may precede psychotherapy. During this phase of treatment, the victim or the abuser is usually separated from the rest of the family to prevent the recurrence of incest.

In the second phase of treatment, all members of the family are seen in family therapy while one or more of them continues to live separately. The reward for cooperation is the return of the victim or the abuser to the home when it is determined to be emotionally and physically safe.

In the third phase, family therapy continues after the reunion of the family. Participation by one or more family members in support groups often continues throughout all stages of treatment.

In most cases, it is essential to the success of the treatment process for the community to exercise control by the threat or actual use of Juvenile and/or Criminal Court to assure the continued cooperation of all family members in this long-term therapy process (see The Need for Investigation, in Chapter Five). Our treatment model typically requires two years of therapy for the completion of the three phases.

Unfortunately, foster placement of the victim is often necessary in the first two stages of treatment to protect the victim from the abuser, although in some areas,

such as Santa Clara County in California, removal of the abuser serves this function. Foster placement can have both positive and negative effects on the treatment process. In the positive vein, a good foster family can provide appropriate male and female parenting, allowing the victim to be a child instead of the family caretaker. Foster parents can model healthier attitudes toward females and provide a corrective experience with adult males.

For placement to be successful, foster parents must be prepared to deal with the possibility of seductive behavior on the part of the child towards males in the foster family. The girl may let loose a flood of dependency when allowed to be a child. The natural family is likely to be troublesome to the foster family, engaging in dependent and/or competitive behavior. Good foster families are hard to find, and require a great deal of preparation and support from professionals to provide the skilled, sensitive care needed by these children.

It must be kept in mind that, while foster placement may be necessary and may be a positive experience, it is also always a traumatic experience for children. They nearly always resent their separation from the family and they may be reinforced in their belief that they are at fault and are being punished for their role in the incest.

This manual is not intended as a handbook for the treatment of family sexual abuse. We suggest that therapists interested in extending their skills in this area take advantage of workshops, training programs and consultation with professionals experienced in this area.

# CHAPTER EIGHT

# PREVENTION OF SEXUAL ABUSE

"My parents taught me never to take candy from strangers, and I never took any candy from strangers." (Statement by incest victim, from the film The Victim Nobody Believes, J. Gary Mitchell Film Company, Inc., 1976.)

As a result of receiving inadequate sex information in childhood, the woman who made the above statement never knew that adults might sexually molest children, and she certainly never knew that her own father might be a molester. Incest victims report that they did not understand what their attacker was doing to them sexually, since they did not know their own anatomy, much less the details of adult sexual behavior. They also did not know what is permissible physical contact between adults and children. Child molesters say that children who have sexual information cannot be molested -- that only those who do not know what is happening to them are subject to abuse (Alpha House, 1978).

Prevention of sexual abuse can be accomplished, in part, by clearly communicating to children sexual information about their own anatomy, with details of the whole reproductive cycle. Ideally, this communication should begin in the very early years before the child enters school and receives misinformation from schoolmates.

Professionals, including physicians, public health nurses, mental health professionals, and others, *who have been trained in child sexual development and educational techniques*, can be of great help to the parent at this early stage. For school-age children, continuing sex education should be a normal, standard part of the school curriculum, tailored to the child's needs at each stage of development. Religious counselors can also aid families in establishing their ethical and moral standards for sexual expression.

## THE PARENTS' ROLE IN SEX EDUCATION AND PREVENTION OF ABUSE

Some parental opposition and misunderstanding with regard to providing sex education to children has arisen. Critics of sex education have expressed the following hesitancies:

1. The child hasn't asked yet
2. It will make the child sexually precocious
3. Lack of knowledge will protect their innocence

Parents are often totally unaware of the early sexual experiences of their children. They tend to "tune out" the inquiries of the two-year-old because of their own lack of knowledge and discomfort with sexual issues. What they can recall are the prohibitions against sexual knowledge that they themselves received from their parents.

Because children are naturally curious and do ask questions at a very early age, many educators recommend that parents tell their children the basic facts of conception, including intercourse and the origin of babies, before they go to school. This also establishes a trust basis that will permit the child to continue to talk to his/her parents about sex. Children also need the basic warnings about the sexual molester who gives candy and about the possibility of being molested by someone they know. They need to know that some people may want to use their bodies without their permission. Basic family religious and moral values can and should also be imparted from an early age, as well as basic anatomic nomenclature and the use of sexual organs.

Some parents may need specific models and guides in educating their children sexually, since they have not had that kind of education from their own parents. This is where the use of sex education books are useful, not for the child directly so much as a guide for parents. One such book is Where Babies Come From, by Margaret Schefield and Sheila Buile (1977). This book is written for very young children, and parents are encouraged to read it to their children as early as possible.

The authors of this manual suggest the following reference materials. Good reference works are A Woman's Body: An Owner's Manual, A Man's Body: An Owner's Manual, and A Child's Body: An Owner's Manual. These are available in paperback, published by Paddington Press Limited (1976). Planned Parenthood has a number of inexpensive, short bulletins and also films available for rental. Outstanding is the film, A Family Talks About Sex, available from that agency (Perennial Education, 1976). A useful book for answering questions of older children is Tell Me Why? Answers to Questions Children Ask About Love, Sex, and Babies by Arkady Leokum (1974). In smaller communities these books will typically have to be ordered from the publishers since they are not generally available. It is helpful to obtain the cooperation of local churches, schools, libraries, etc. in obtaining such books for reference.

Direct examples from counselors or physicians on how to communicate necessary information may be helpful to the parents. For example, while bathing a young child, a parent might say, "Yes, this is your nose, this is your tummy, this is your penis," or "This is where your clitoris is, this is your vagina, and when you grow up you can have a baby inside your tummy in a special place for growing babies called the uterus."

In giving examples, the parent can illustrate with a calm and matter-of-fact voice the warm but unexcited tone that communicates comfort with such information. Parents also need direct information about masturbation. Parents may also have to be told that punishment for self-exploration can be harmful for future development.

If parents request help by asking that sex education be given directly to their children by a counselor or physician, the parents should also be included in the conference with the child, not only in order to know what the counselor has said, but in order that they may communicate their own religious and moral standards. Parents should be encouraged to continue to talk to their children about sex after the consultation, particularly to be available for the child's questions. Most parents will welcome the chance to learn more about how to talk to their children about sex within the context of their own beliefs.

## THE SCHOOL'S ROLE IN SEX EDUCATION AND PREVENTION OF ABUSE

The Minnesota State Department of Education's position statement on Family Life and Sex Education states that, "The basis for responsible membership in our society is founded upon a sound understanding and knowledge that the family is the fundamental unit of that society. While parents have the primary responsibility for family life and sex education, the school cannot ignore its responsibility for education in this area". (Minnesota Department of Education, 1966)

Sex education programs in a school setting can be an important component of the prevention of sexual abuse. There appears to be some lack of agreement about the aim of such programs and this appears to be based partly on the fact that formal sex education is typically too little and too late. By the time children get to kindergarten they have learned not to ask questions about sex or to discuss their own experiences.

The "Child Sexual Abuse Prevention Project" sponsored by the Hennepin County Attorney's Office has worked with over 800 children in the primary grades, using theatrical techniques to illustrate permissive and abusive touching. It was found that one in six of these children had already been sexually molested. Although this finding is an additional illustration of the overwhelming need for early parental intervention, it is also an example of innovative early public sex education which could be adapted for the nursery school level.

Elementary school children need to know the basic facts of puberty — how their bodies will develop and what to expect. This should include practical details of wet dreams and tampons. Epidemic teenage pregnancies and venereal disease suggest that high-school-age children need to know about birth control and venereal disease. Prostitution, rape, incest and same-sex assault also need to be discussed. More detailed information about adult sexual behavior, communication skills, and sexual responsibility is needed by older adolescents to allow for imparting the kinds of values the family considers important in marriage and other partnerships. The Minnesota State Department of Education's curriculum bulletin, Guidelines for Family Life and Sex Education, elaborates on these concepts. (1970)

Children who have not had the benefit of ongoing sex information will need to catch up on what they do not know. Even though it is most appropriate for parents to take the leading role in the sex educaton of their children, it will continue to be the responsibililty of the schools to supplement this effort by providing accurate and complete information.

## THE ROLE OF RELIGIOUS COUNSELING

Since sexual abuse does have moral as well as legal implications, it would be helpful if more religious leaders were involved in the identification of the problem, as well as in preventive efforts. Clinical experience indicates that many of the offenders attend religious services regularly and experience little guilt or sense of responsibility for their actions. Perhaps discussion of this problem with the congregation would encourage more offenders and their families to seek help.

Although religious counselors are exempt from the mandatory reporting law, we encourage them to consider referring the family to other agencies for additional support and services. Dealing with family sexual abuse can be a tremendous burden for the religious counselor to bear alone. Involving outside agencies may be helpful to the family and may allow the clergy to be more effective in their role.

In those cases where the family's religious leader has been willing to be involved, both the family and the psychotherapist have been immensely aided by their support and advice.

Religious leaders can also supplement parents' and teachers' basic sex information by indicating acceptable models of sexual expression according to their own religious beliefs. An additional role of the religious community can be to supplement the sex education provided by parents and schools through the development of family life programs within the church.

Prevention of sexual abuse must include not only life-long education by parent, physician, school, and church, but also a change in our society's basic assumptions about the place of sex in our lives and our basic obligations to our children. Sex with anyone who lacks the ability to understand and consent is using a human being as an object. Children are not property-things to be used by parents for their own gratification, but rather developing people, who deserve both guidance and respect for their humanness.

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